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**FAIR HOUSING:
IT'S THE LAW!**

A nonprofit organization protecting and advancing the legal rights of people with mental disabilities.

Fair Housing Tip of the Month – January 2021

Protections for Housing Applicants with Past Eviction History

PROSPECTIVE TENANT: *“I have had a mental health disability for most of my adult life. Last year, someone close to me died and it was very traumatic for me. My mental health rapidly declined and I ended up in a psychiatric hospital. While in the hospital, I was evicted from my apartment and became homeless. I am now living in transitional housing, my mental health has stabilized with treatment, and I’m looking for a new apartment. However, no landlord will rent to me because they find out about the eviction when they run a background check. This seems like discrimination based on my mental health history. Can fair housing laws help me?”*

The law says: Yes, fair housing laws require that landlords make exceptions, called “reasonable accommodations,” to rules when necessary to allow people with disabilities equal opportunity to live in and enjoy housing. Landlords must provide reasonable accommodations for applicants, as well as people who are already tenants. While landlords can have general rules and policies about renting to people with past evictions, landlords must make exceptions for applicants with disabilities, such as waiving specific rules if those rules would effectively bar a person from renting because of their disability. If an applicant’s eviction history is related to their disability, the prospective landlord must consider other ways to evaluate tenant-worthiness.

To be entitled to a reasonable accommodation, an applicant or tenant must request the accommodation, state that they have a disability, and explain how the accommodation is related to their disability (unless the relationship between accommodation and disability is obvious). The landlord must grant the request, unless it is too difficult or expensive (an “undue burden”) or changes the nature of the landlord’s business (a “fundamental alteration”). An alternative method of evaluating fitness for tenancy, such as reviewing references from service providers or considering the financial stability provided by a housing voucher, probably would not create an undue financial or administrative burden, nor would it fundamentally alter the landlord’s business.

What to do: Make a written request to the prospective landlord, asking the landlord to make an exception to their rules regarding eviction history and evaluate your tenant-worthiness using an alternative method as a reasonable accommodation under fair housing laws. In your request, you need to provide only enough information about your disability to make clear its connection to your accommodation request. In addition, explain how the eviction was related to your disability and why such a situation is unlikely to occur again. In your case, you can explain that you experienced a decline in your mental health due to a traumatic event, but now your mental health has stabilized and you are receiving treatment. You can include support letters from service and/or mental health providers vouching for your participation in their programs and indicating that they are providing ongoing support to you.

If a landlord refuses to consider a request for reasonable accommodation or refuses to engage in an interactive process, an applicant or tenant can file a complaint with a local fair housing agency, the California Department of Fair Employment and Housing (DFEH), or the U.S. Department of Housing and Urban Development (HUD).

To file a complaint with HUD, call 800-669-9777, or visit www.hud.gov/program_offices/fair_housing_equal_opp/complaint-process

To file a complaint with DFEH, call 800-884-1684, or visit www.dfeh.ca.gov/complaint-process/file-a-complaint/

Fair housing laws prohibit discrimination in housing based on the following characteristics: race, religion, national origin, color, sex, familial status, disability, marital status,* ancestry,* sexual orientation,* gender identity,* gender expression,* genetic information,* and source of income.*

*Covered under California law, but not federal law. (For most housing, California laws also prohibit discrimination on the basis of citizenship, immigration status and primary language.)

Disclaimer: *The Fair Housing Tip of the Month is for educational purposes only and does not constitute legal advice. If you have a legal question, please contact MHAS, your local fair housing council or another attorney of your choice.*

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