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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 – June 2021

Reasonable Accommodation for a Prospective Tenant with Disability-Related Credit Problems

TENANT: *“I have a mental health disability that caused me some financial problems before I got appropriate mental health treatment. As a result, I had to charge my rent to my credit card, and I haven’t been able to fully pay off my credit card debt. However, I’ve never missed a rent payment and I am working on resolving the debt. I have a portable Section 8 voucher and am currently trying to find a new place to live. I’ve applied for several apartments in Southern California and have been denied because of my credit score. I think one of the landlords denied me because I have Section 8 voucher. I want to explain that my credit history doesn’t mean I’m a bad tenant. What can I do? Do I even have rights since I’m not a tenant yet?”*

The law says: Yes! Fair housing laws apply to prospective tenants as well as current tenants, so landlords must grant reasonable accommodation requests for applicants with disabilities when necessary. A reasonable accommodation is a change in rules, policies, practices, or procedures needed by a person with a disability to fully enjoy or use a dwelling. An accommodation is reasonable if it is necessary due to the disability, does not impose an undue burden or fundamentally change the landlord’s business, and does not pose a direct threat to people or property.

Landlords may be permitted to use credit scores to evaluate potential tenants, but, because your low credit score is connected to your disability, you can ask for a reasonable accommodation. Specifically, you could ask the landlord to waive the credit score cut-off requirement and consider other factors that demonstrate your financial reliability as a tenant.

In California, refusal to rent to prospective tenants because they have Section 8 vouchers has been prohibited since 2020. California law (but not federal law) has recognized that refusing to rent to Section 8 tenants is illegal discrimination based on source of income.

What to do: Submit a reasonable accommodation request to the landlord explaining (1) that you have a disability, and (2) that there is a connection between your disability and your need for waiver of the credit score requirements. You are not required to submit your reasonable accommodation request in writing, but it is better to submit it in writing and keep a copy so you have proof that you made the request. Your accommodation request should also reflect any ways in which your situation has changed for the better since your credit problems started. For example, if you struggled to pay your rent before you had rental assistance, but now you have a Section 8 voucher that pays a portion of your rent, you are much more likely to be able to fulfill your rental obligations going forward.

If your disability is not known or obvious, a prospective landlord may ask for verification to confirm that you have a disability and/or that you have a disability-related need for the accommodation you are requesting. If the landlord asks for proof, you could request a letter from your mental health provider verifying that you have a disability and that the debt impacting your credit score was related to your disability. The letter could also reflect that you are currently in treatment and/or receiving support services. Note that verification letters need not, and in and most cases should not, include any information about specific diagnoses or details about treatment.

Consider collecting and submitting other evidence, like letters of support from landlords, that will strengthen your reasonable accommodation request. For example, if you have a good relationship with your current landlord, you could ask them to write a letter saying that you’ve always paid your rent on time. You could also reach out to previous landlords to ask for similar letters. Support letters are not necessary, but they can be helpful in demonstrating your reliability as a prospective tenant, and thus the “reasonableness” of your request.

If the landlord denies your reasonable accommodation request or refuses to engage in an interactive process to meet your disability-related needs, you may file a complaint with a local fair housing agency, the California Department of Fair Employment and Housing (DFEH), or U.S. Department of Housing and Urban Development (HUD). If you believe you were denied housing based on the fact that you have a Section 8 voucher, you may also wish to file a source of income discrimination complaint with your local fair housing agency in California or with DFEH.

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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