



3255 Wilshire Blvd., Suite 902
Los Angeles, CA 90010
(213) 389-2077
For California Relay Service TTY: (800) 735-2929
www.mhas-la.org



***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

Tip #9 – Drug Addiction is a Disability if Not Related to Current Illegal Drug Use

CASE MANAGER: “I am a case manager at a nonprofit social services organization. I work with a lot of clients who have overcome a lot in their life and are trying to get back on their feet. Some of my clients who have had drug addiction problems in the past get turned away by landlords who find out about their past. They assume my clients will bring illegal drugs with them into the apartment building, even though many of my clients have been clean for a while. What can I do to help these clients find housing?”

The law says: The definition of disability under fair housing laws includes drug addiction that is not caused by current illegal drug use. It also includes alcohol addiction. So landlords cannot deny applicants housing solely on the basis of drug addiction or alcohol addiction, but they are not prohibited from denying applicants who are current illegal drug users. This means that a landlord can ask an applicant or tenant about current use of illegal drugs and convictions for illegal manufacture or distribution of controlled substances, as long as the landlord asks all applicants these questions. Selectively asking these questions from applicants about whom the landlord has suspicions or who are part of a protected class, such as a particular race, would be discrimination and a violation of fair housing laws. The landlord’s right to ask about current illegal drug use does not mean that the landlord can ask other questions about, or make leasing decisions based on, an applicant or tenant’s addiction history.

What to do: A landlord who refuses to rent, or tries to terminate a lease, solely because your client has an alcohol addiction or had an addiction to illegal drugs in the past, may not realize that those actions would be discrimination on the basis of disability. Assuming your client is not currently engaged in illegal drug use, explain to the landlord that drug addiction is a disability when it is not caused by current illegal drug use, and that the landlord’s refusal to rent to someone with an addiction is discriminatory and a violation of fair housing laws.

If the landlord refuses to rent or pursues termination of a tenant’s lease in violation of fair housing laws, the 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, marital status*, ancestry*, familial status, disability, sexual orientation*, source of income.*

*Indicates a prohibited basis for discrimination in California, but not under federal law.

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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