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



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

Fair Housing Tip of the Month

Tip #2 – Emotional Support Animals in Common Areas of a No-Pets Building

TENANT: “My landlord granted my reasonable accommodation request to keep my emotional support animal in my unit, but said that I cannot have my animal in the common areas, even though I need my animal with me most of the time. Is my landlord allowed to exclude my animal from the common areas or require me to use a carrier or leash?”

The law says: No, if having your emotional support animal with you in the common areas is necessary for you to have equal access to housing-related services. A landlord cannot impose restrictions on a support animal, which provides emotional support to alleviate a symptom or effect of a tenant’s disability, if the restrictions would deny equal access to housing or related services, such as using the laundry room or mail room. Rental of an apartment includes use of all common and public areas that tenants generally use and access in the building. Accordingly, state and federal law recognize that granting a reasonable accommodation for an emotional support animal includes allowing the animal access to common and public-use areas in the building, unless permitting such access would be too difficult or expensive (an “undue burden”) or change the nature of the landlord’s business (a “fundamental alteration”).

It is important that the emotional support animal be under control. The support animal cannot pose a direct threat to the health and safety of others or cause substantial physical damage to the building that cannot be reduced by another reasonable accommodation. While reasonable conditions can be imposed on the use of a support animal to ensure that it is under control, such conditions cannot interfere with the normal performance of the animal’s duties. For example, in some cases, a leash or carrier requirement may interfere with the performance of an animal’s support duties. If this is the case, the animal must be responsive to voice, signal, or other controls.

What to do: Explain to your landlord, preferably in writing, that the nature of your disability requires your emotional support animal to be with you at nearly all times, including when you use common areas of the building. If your landlord asks for verification, ask your treating professional to write a letter explaining that you need an emotional support animal with you in common areas because it helps alleviate a symptom or effect of your disability that you may experience in the common areas. Keep copies of all correspondence with your landlord.

If your landlord refuses to permit your emotional support animal to access common areas with you, you 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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