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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 #4 – Reasonable Accommodation and Landlord Demand for Waiver of Other Rights

TENANT: “Recently, I was unable to get my medication and made too much noise for a while, disturbing neighbors. My landlord gave me a 3-day notice to cure or quit. I asked my landlord for a reasonable accommodation to rescind the 3-day notice because I am now back on my medication and not making excessive noise. He said he would grant the accommodation, but I had to agree to leave my apartment at the end of my lease term. I live in a place where landlords need a good reason to terminate your tenancy, even at the end of a lease term. Do I have to waive my right to continue my tenancy in order to receive a reasonable accommodation?”

The law says: No, your landlord cannot make you waive other legal rights as a condition of granting you a reasonable accommodation because to do so would undermine equal access to housing for people with disabilities.

Fair housing laws require that landlords make “reasonable accommodations,” or changes to rules, when the change is both reasonable and necessary to allow a person with a disability to have equal access to housing. In order to receive an accommodation, a tenant must request the accommodation and show why it is related to the tenant’s disability. The landlord must respond without undue delay, and must grant the request, unless it changes the nature of the business (a “fundamental alteration”) or it is too difficult or expensive (an “undue burden”). Denial of a reasonable accommodation is a violation of fair housing law.

Fair housing laws do not permit a landlord to condition the granting of a reasonable accommodation on the tenant’s waiver of other rights. Requiring such a waiver as a condition of granting an accommodation would essentially impose a cost in order to obtain an accommodation, which is not allowed. If the landlord is truly granting an accommodation, it will not put the tenant in a worse position than he or she would be in if he or she did not have a disability.

What to do: While you can request a reasonable accommodation orally, it is good practice to make your request in writing and to keep a copy of it. If your landlord does not think the request is reasonable, your landlord cannot simply refuse your request, but must enter into an interactive process with you to determine if there is some way to grant your accommodation that will not impose an undue burden or fundamentally change the nature of your relationship. These standards for determining if an accommodation is reasonable do not give the landlord the right to renegotiate your lease or force you to waive tenancy rights you may have under state and/or local law. When a landlord seeks to do this as part of the reasonable accommodation process, they are violating fair housing laws by undermining your fair and equal access to housing.

If your landlord refuses to consider your reasonable accommodation request or imposes unreasonable conditions on the granting of your accommodation, 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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