Fair Housing Tip of the Month

Tip #11: Fair Housing Act Covers Guests with Disabilities

“My tenant has a one bedroom apartment and her daughter and her three children visit every weekend and stay overnight. The children make quite a bit of noise and my tenant says that one has autism and one has ADHD. There is only one tenant authorized on this lease. Can I limit the visits the tenant’s family makes and, if the tenant does not comply, can I evict her? Does it make a difference if the children have disabilities?”

The law says: Under fair housing law, landlords may not discriminate against any person in the terms, conditions, or privileges of a lease because of familial status or disability. An aggrieved person may sue under the Fair Housing Act even if the person is not a tenant if she has been injured by a discriminatory housing practice. Therefore it is illegal to discriminate against a tenant, applicant, or the guests of tenants. It is unlawful to evict tenants based on a disability, familial status, or the disability or familial status of a tenant’s guest. A landlord’s right to evict a tenant or restrict a tenant’s guests cannot be based on a discriminatory purpose or on the failure of the landlord to provide a reasonable accommodation or modification.

However, a landlord also has an obligation to protect the right to quiet enjoyment and to provide a property free of nuisance for all tenants. The landlord has the right to create non-discriminatory rules for the property which protect the rights of the tenants, so long as the rules are applied equally to all tenants. A landlord also has the right to restrict public places in the property to residents only and to apply restrictions on the noise created by tenants or their guests. Under fair housing laws, a landlord is required to allow exceptions to rules and procedures as a reasonable accommodation to ensure that a tenant or tenant’s guest with a disability can enjoy equal access to the housing.

What to do: Because a landlord cannot discriminate against a tenant’s guest with a disability, your rules and policies must be applied fairly to all tenants. Therefore, you should develop and equally apply rules regarding noise and nuisance for all tenants. With regard to visits by a tenant’s grandchildren who have disabilities, a reasonable accommodation may be necessary, however, to afford this tenant equal use of her housing. Assuming the noise level is in fact interfering with the quiet enjoyment of other tenants, the grandmother could request a reasonable accommodation, in this case to allow her to move to a more isolated unit which would limit the nuisance caused to other tenants, or to modify the unit at her expense to sound proof the apartment.

Fair Housing: It's the Law: A landlord cannot discriminate against a tenant or her guests on the basis of a disability. You must provide reasonable accommodations or allow reasonable modification when not unduly burdensome.

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1 42 U.S.C.A. §3604 (b) & (f)
4 24 C.F.R. §100.60(b)(5)
6 42 U.S.C.A. §3604

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

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