Fair Housing Tip of the Month

Tip #14: Reasonable Accommodation when a Tenant Seeks Early Termination of a Lease

“My tenant moved in to her apartment five months ago after signing a one-year lease. Over the last two months, she has complained to me about her neighbors making noise late into the night and that it is exacerbating her mental disability. I have advised the neighbors that they must be respectful of other tenants, but I can’t control everything my tenants do and I’m not sure that the neighbors are making excessive noise. Now my tenant says that she wants to leave her unit early as a reasonable accommodation even though she has seven more months on her lease. What are my rights? Can she leave early without paying a fee or some portion of the rent she would have owed?”

The law says: Early termination of a lease without paying fees and costs is an example of a potential reasonable accommodation, or change in rules, policies, or procedures to allow a person with a disability equal access to housing. Fair housing laws impose a duty on landlords to reasonably accommodate the needs of individuals with disabilities with regard to the administrative policies governing rentals. Courts have found that this duty can include waiving generally applicable fees and other costs associated with early lease termination in specific instances. In determining reasonableness to waive fees and costs courts have considered such factors as the amount in question, the importance of the waiver to the tenant requesting accommodation, and whether the landlord can avoid any unreasonable costs, such as by re-renting the unit to a different tenant. For example, a landlord who refused to let a tenant terminate a lease early without paying a “re-letting” fee and the rent owed for the remaining lease term after the tenant was hospitalized for a serious illness could be sued under federal fair housing law. In one such suit, a landlord was required to pay damages and attorney’s fees after the landlord ignored a tenant’s request to terminate her lease early so she could move closer to her doctor. Depending on the circumstances, it may not be reasonable for a landlord to allow the tenant to move out immediately without paying additional rent; however, once a tenant requests an accommodation to move out, the landlord should work with the tenant to find a reasonable solution. For example, the landlord may agree that the tenant can move out without an early termination fee as soon as a new tenant is found, as long as the delay does not cause the tenant undue medical concerns.

What to do: Whether it is reasonable for the tenant to terminate her lease without paying fees and costs associated with early termination will depend on the factors of the individual situation, including whether you can avoid the cost of terminating the lease early by renting to another tenant. After the tenant requests to move out, you should work with her to see if you can find a solution that will resolve the situation without unreasonable costs. If it is likely that you will be able to quickly find a new tenant, it may be reasonable to agree to let the tenant move out without paying any additional rent or early termination fees. You are also obligated to return the tenant’s security deposit, with only such deductions as are justified under applicable landlord-tenant law.

Fair Housing: It’s the Law: If a tenant makes a request to change lease terms because of a disability, engage in an interactive negotiation with the tenant to determine an accommodation that is reasonable. Depending on the circumstances, early termination of the lease without financial penalty to the tenant may be reasonable.

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.

The Fair Housing Tip of the Month is funded by a grant from the U.S. Dept. of Housing & Urban Development Fair Housing Initiatives Program (Grant #FH400G13044).

May 2015