Fair Housing Tip of the Month

Tip # 5: Rights of Hospitalized Patients to Maintain Housing

“My tenant did not pay last month’s rent and I thought she might have abandoned her unit. I put a notice to pay or quit on her door. She said that she was hospitalized for two weeks and tried to give me her rent check 15 days late, which I didn’t accept. Can I evict her?”

The law says: It is unlawful to discriminate against a renter based on a disability. Discrimination includes the refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling. A landlord has an affirmative duty to reasonably accommodate the needs of “persons with disabilities not only with regard to physical accommodations, but also with regard to the administrative policies governing rentals.” An accommodation is reasonable under the Fair Housing Act “when it imposes no ‘fundamental alteration in the nature of the program’ or ‘undue financial or administrative burdens.’”

What to do: If your tenant makes a request for reasonable accommodation based on her disability, you are obligated to negotiate concerning the accommodation. If the request is not sufficiently detailed to reveal the nature of the accommodation requested or if you do not think the accommodation is reasonable, you must enter into a discussion with the tenant to determine how the accommodation might work and whether the requested accommodation or something similar would be reasonable under the circumstances.

In this circumstance, the accommodation to accept a late rent payment would be reasonable, but would not exempt your tenant from any payment policies that are equally applied to all tenants, such as paying late fees on your acceptance of a late payment. If the tenant failed to request a reasonable accommodation; if the accommodation was not reasonable; or if the tenant failed to comply with the payment schedule under the reasonable accommodation, the landlord can evict the tenant.

Fair Housing: It’s the Law: A tenant with a disability may request a reasonable accommodation from you. You are obligated to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford a tenant with a disability equal opportunity to use and enjoy a dwelling. Receiving rent late when a tenant has been hospitalized is likely a reasonable accommodation fair housing laws require you to make. If you have generally applicable late fee requirements that you apply to all tenants, you might be able to assess that fee upon receiving the late payment.

3 United States v. California Mobile Home Park Mgmt. Co., 29 F.3d 1413, 1416 (9th Cir. 1994).
4 Giebeler v. M & B Associates, 343 F.3d 1143, 1157 (9th Cir. 2003).
6 Auburn Woods I Homeowners Ass’n v. Fair Employment & Hous. Comm’n, 121 Cal. App. 4th 1578, 1598, See also, Groner v. Golden Gate Gardens Apartments, 250 F.3d 1039, 1047 (6th Cir. 2001)
7 United States v. California Mobile Home Park Mgmt. Co., 29 F.3d 1413, 1418 (9th Cir. 1994).

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).