



Fair Housing and Assistance Animals

I heard that the Americans with Disabilities Act (ADA) does not protect my right to have an emotional support animal (ESA) and only recognizes dogs as service animals. Does this mean I can no longer have my emotional support cat in my apartment?

It is true that the ADA does not recognize ESAs as service animals and it does limit the definition of service animals to dogs (and miniature horses in some situations). However, the ADA covers public places and government buildings and services; it does not cover housing. The Fair Housing Act (FHA) covers housing and it does recognize ESAs and allows animals other than dogs. When looking at housing covered under the FHA, it doesn't matter if the assistance animal is a trained service dog or an untrained ESA because they are treated the same.

I just fell in love with a house that I want to rent but the owner says he won't allow me to have my service dog. Is this legal?

The first question you must answer is whether the owner is subject to the FHA. Not all rental properties or property owners are obligated to follow the FHA. Some exceptions include a building with 4 or less units if the owner lives in one of the units; a home rented by an owner who has 3 or fewer rental properties; and a home rented by the owner without the use of a broker. If the owner does not meet an exemption to the FHA, he or she must allow the service dog as a reasonable accommodation even if the property is listed as pet-free.

My landlord just told me that there is a new rule requiring tenants with pets to pay an extra \$25 per month. Do I have to pay this monthly pet fee for my ESA?

Property owners are not allowed to charge any sort of pet fee for assistance animals, including a pet security deposit or a monthly pet fee.

Do I have to prove I have a disability in order to have my ESA in my apartment?

If your disability is obvious, the property owner must not ask for any documentation of disability, but if your disability is not obvious, he or she may ask for documentation that you have a disability and that the ESA is necessary to alleviate a symptom or effect of

Assistance animals are NOT pets! They cannot be denied under a "No Pets" rule, there can be no limit on the breed or size, and the individual with a disability cannot be charged pet fees or deposits.

your disability. You do NOT have to disclose your diagnosis, nature of your disability, or your medical records.

Do I need to have my assistance animal certified?

There is no certification requirement in the FHA. There are on-line organizations that claim to certify assistance animals (for a fee), but such certification does not provide you or your animal more rights or protection.

My assistance animal scratched a door in my apartment and chewed a section of the linoleum in the bathroom. Do I have to pay for this damage?

Yes. The owner of an assistance animal is responsible for any damage caused by the animal beyond normal wear and tear.

My doctor has recommended that I get an ESA due to my depression but pets are not allowed in my apartment. How do I address this issue with the property manager?

An ESA is a reasonable accommodation under the FHA which means you must be allowed to have an ESA in your apartment as long as you have a disability and the ESA alleviates symptoms of that disability. You must request a reasonable accommodation and be prepared to provide documentation since your disability is not visibly observable. Ask your doctor or mental health professional to write a letter on his or her letterhead stating the following: your name; the fact that he or she is treating you; you have a disability (you do NOT have to disclose your diagnosis or the nature of your disability); in his or her professional opinion, you need an ESA; identify the type of animal for which the reasonable accommodation is sought; and the reason you need the ESA is to alleviate a symptom of your disability and not merely as a pet.

After my service dog bit another tenant and growled at a child, I received an eviction notice. Since I have a reasonable accommodation for the service dog, can I really be evicted?

The FHA does not require property owners to allow assistance animals who pose a direct threat to the health or safety of others. Therefore, the eviction notice was valid. However, you may ask the property owner to consider any steps you can take to reduce the danger such as consulting a professional dog trainer about your dog's behavior or using another type of leash or harness that would give you more control over your service dog. This would be a request for another accommodation to avoid eviction.

Can my snake be an ESA?

Under the Fair Housing Act and guidance documents from the Department of Housing and Urban Development, ESAs can include dogs, cats, small birds, rabbits, hamsters or other rodents, fish, turtles or other small domesticated animals that are traditionally



kept in the home. If the person with a disability has a unique animal not on this list, he or she must demonstrate the need for that specific animal or type of animal. The property owner may require more substantial documentation to prove that your snake is required to alleviate a symptom or effect of your disability in order for you to use and enjoy your residence.

I have a trained therapy dog that I take to the local children's hospital. Does he qualify as an assistance animal?

Therapy dogs do not qualify as assistance animals under the FHA. An assistance animal performs tasks, provides assistance, and/or provides therapeutic emotional support for a specific individual with a disability. Your dog is considered a pet and you are required to follow all pet rules and pay all pet fees.

If you think your rights may have been violated, you can file a Fair Housing complaint. For information on how to file a complaint, look for information on this website and on the following pages:

- https://www.hud.gov/program_offices/fair_housing_equal_opp/online-complaint
- <http://www.dpor.virginia.gov/FairHousing/>

dLCV publications are available in alternate format, upon request.