

Fair Housing and Mental Health

When we think of Fair Housing rights, we often think of physical accessibility such as ramps and accessible parking. However, the Fair Housing Act and the Virginia Fair Housing Law protect people with all types of disabilities—physical, sensory, mental, intellectual, developmental, etc.

Definition of disability under the Fair Housing Act and Virginia Fair Housing Law

- physical and/or mental impairment which substantially limits one or more major life activities,
- record of such an impairment, or
- regarded as having such an impairment.

What are some examples of protected mental health disabilities?

depression, anxiety, bipolar disorder, post-traumatic stress disorder (PTSD), schizophrenia, organic brain syndrome, hoarding disorder, obsessive compulsive disorder

What protections do I have as a person with a mental illness or disorder?

Equal access to housing and freedom from discrimination

Equal Access to Housing

It is illegal for a landlord or property owner to do any of the following because of your disability:

- Refusing to rent to you or show you available units
- Restricting you to certain units or sections of a building
- Setting a higher rent or security deposit than for others in similar units
- Not allowing you to access onsite facilities (e.g., recreation spaces such as a pool, laundry room)

Freedom from Discrimination

In most situations, a landlord or property owner must allow requests for Reasonable Accommodations (changes in rules and policies) and Modifications (physical changes to your home or common areas) which are necessary for you to have an equal opportunity to access and enjoy your home.

Examples of Reasonable Accommodations and Modifications

- Allowing an assistance animal, including an emotional support animal, even if there is a no-pet policy
- Allowing flexible application procedures such as applying in person rather than online
- Changing rent due date to coincide with receipt of disability income
- Allowing a tenant additional time to comply with building rules
- Allowing physical changes to make a unit quieter, such as putting in carpet or acoustic tiles
- Allowing installation of additional locks or other security measures

Protection from Eviction

Eviction based solely on mental illness is illegal but you may be evicted if you pose a direct threat or you violate the terms of your lease. However, if the behavior that led to the eviction is directly related to your disability, your landlord or property owner must approve a request for an accommodation that would allow you to remain in your home unless it is unreasonable due to cost (undue burden) or it requires the landlord to provide services not otherwise expected of property owners or managers (fundamental alteration).

Examples of Using Reasonable Accommodations to Avoid Eviction

Example 1: 1. Joe receives SSDI for his mental health diagnosis. He pays his rent late every month because he doesn't get his Social Security check until the third or fourth day of the month. After being late several times, his landlord tells him if he is late again, he will be evicted. Asking for the due date to be changed to the fifth day of the month would be a reasonable request.

Example 2: Louise is facing eviction because her child with ADHD damaged a wall in their apartment. She may ask her landlord for time to seek treatment for her son's ADHD. She would still have to fix the damaged wall, but it may help her family stay in their apartment.

Example 3: Janet faces eviction because the landlord says her apartment is so dirty and cluttered that it creates a risk for fire and roaches. Janet has hoarding disorder that makes housekeeping difficult or impossible. In order to avoid eviction, Janet may ask her landlord to delay the eviction case so that she can hire someone to help her clean the clutter.

Example 4: Will, a man with a mental health diagnosis, has been a steady reliable tenant for many years. However, twice in the past few weeks, he has threatened his neighbors with physical harm. Although his landlord likes Will and has appreciated him as a tenant for a long time, she tells him she must evict him because he poses a direct threat to others living in the apartment complex. Due to an insurance mix-up, Will has not had access to his medication for almost two months. Will may be able to avoid eviction if he demonstrates that his recent behavior is directly related to his mental health disability and he is now back on his medication.