SERVICE ANIMALS, BEHAVIORAL HEALTH, AND HOUSING

TENANT LAW CENTER

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TENANT LAW CENTER

WHAT WE WILL COVER

- What is a service animal?
- What is an emotional support animal?
- Are service animals and emotional support animals different? How?
- Handling problems with service and emotional support animals

WHAT IS A SERVICE ANIMAL?

- Washington law:
  - RCW 49.60.040: “any dog or miniature horse that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. The work or tasks performed by the service animal must be directly related to the individual's disability.”
- Federal law:
  - ADA: A service animal means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability.

QUESTIONS ABOUT A SERVICE ANIMAL

- OK:
  - Is this a service animal required because of a disability?
  - What work or task has the animal been trained to perform?
- Not OK:
  - Can you have the service animal show me the tasks they perform?
  - What is your disability/condition?

Note: service animals are not required to wear vests that identify them as a service animal

WHAT IS AN EMOTIONAL SUPPORT ANIMAL (ESA)?

- An emotional support animal is a type of animal that provides comfort to help relieve a symptom or effect of a person's disability
- They DO NOT COUNT as service animals under the ADA
  - Some protection under FHA
  - Check to see if ESAs are protected under your local or state laws
    - Ex. Protected under Seattle law

WHAT'S THE DIFFERENCE?

Service Animal

- Primarily dogs, but sometimes mini-horses
- Performs specific tasks
  - Meaning the animal is trained
- More protections under the law

Emotional Support Animal

- Not tied to specific type of animal (check your local laws to be sure)
- Comfort, support
- Doesn't perform specific tasks
- Fewer legal protections

THINGS TO REMEMBER

- Landlords CANNOT charge pet deposits or rent for service animals or ESAs
- Landlords CANNOT restrict the breed of the animal
- Tenants are responsible for the behavior of their animal

MOVING IN WITH A SERVICE ANIMAL OR ESA

- Step 1: Notify the landlord of request for reasonable accommodation before move-in
  - Doesn't have to be in writing, but better to have records
  - Landlord cannot require you fill out a specific form
- Step 2: Provide verification letter
  - Verification can be provided by a reliable third party who knows about the disability
    - Doctor or other medical professional, a peer support group, a non-medical service agency, or any other reliable third party
    - Someone qualified to affirm the existence of the disability and the need for accommodation

COMMON PROBLEMS AND HOW TO HANDLE THEM

- Landlord refuses to allow service animal or ESA
- Landlord wants detailed information on the client's diagnosis/diagnoses
- Client is being charged pet rent
- Client's animal is causing problems

LANDLORD REFUSES TO ALLOW SERVICE ANIMAL/ESA

"No pet" rules don't apply to service animals (and sometimes ESAs)

1. Did the landlord specify why? If possible, see if you/your client can work with them to iron out the issue
2. Make sure you share the law with them (see resources shared with this presentation)
3. File a complaint with whoever can help you
   - HUD: https://portalapps.hud.gov/FHEO903/Form903/Form903Start.action
   - WA: https://fhcwashington.org/
   - For resources outside of WA, see the resources shared with this presentation or conduct an internet search to see who near you can help
4. If possible, consider a lawsuit to enforce tenant's rights

LANDLORD WANTS INFORMATION ON CLIENT'S CONDITION(S)

1. Make sure you share the law with them (see resources shared with this presentation)
   - See if you can get the client's medical provider to send a letter to the landlord about your client's rights
   - It's OK to ask the landlord why they need the diagnosis, but tenants DO NOT have to share said diagnosis
2. File a complaint with whoever can help you
   - HUD: https://portalapps.hud.gov/FHEO903/Form903/Form903Start.action
   - WA: https://fhcwashington.org/
   - For resources outside of WA, see the resources shared with this presentation or conduct an internet search to see who near you can help
3. If possible, consider a lawsuit to enforce tenant's rights

LANDLORD IS CHARGING PET RENT FOR THE ANIMAL

1. Make sure you share the law with them (see resources shared with this presentation)
   - It can be helpful to write a demand letter outlining the specific charges that are a problem and explaining why
2. File a complaint with whoever can help you
   - HUD: https://portalapps.hud.gov/FHEO903/Form903/Form903Start.action
   - WA: https://fhcwashington.org/
   - For resources outside of WA, see the resources shared with this presentation or conduct an internet search to see who near you can help
3. If possible, consider a lawsuit to enforce tenant's rights

CLIENT'S ANIMAL IS CAUSING PROBLEMS

- Tenants are responsible for the behavior of their animals, whether they are a service animal, ESA, or even just a pet
- If an animal misbehaves, it may lose its status as a service animal/ESA

RESOURCES

- DOJ website: https://www.ada.gov/topics/service-animals/
- WA Human Rights Commission: https://www.hum.wa.gov/sites/default/files/public/publications/Service%20Animals%20and%20the%20Washington%20Law%20Against%20Discrimination-032019.pdf
- Fair Housing Center of WA: https://fhcwashington.org/

RESOURCES

- Oregon:
  - Oregon Service Dog and Emotional Support Animal Laws | Nolo
  - Disability Rights Oregon: https://www.droregon.org/
- Idaho:
  - Idaho Laws on Service Dogs and Emotional Support Animals | Nolo
  - DisAbility Rights Idaho: https://disabilityrightsidaho.org/
- Alaska:
  - Alaska Laws on Service Dogs and Emotional Support Animals | Nolo
  - Disability Law Center of Alaska: https://www.dlcak.org/

QUESTIONS?