



### **“Assistance Animals” and the Fair Housing Laws**

**QUESTION:** I have a prospective tenant who is interested in renting an apartment I manage. She qualifies to rent the apartment but there is one big catch. The landlord does not permit pets, but the tenant says she has a disability and claims that she has the right to keep a pet rabbit with her on the property. I have never dealt with this situation and I want to know if my landlord has to make an exception to his “no pets” policy.

**ANSWER:** The Federal Fair Housing Act and HUD regulations that prohibit discrimination because of disability require housing providers to make a “reasonable accommodation” for persons with disabilities to use “assistance animals” in housing. While dogs are the most common type of assistance animal, other animals can also be assistance animals.

**QUESTION:** Someone told me that I can require the prospective tenant to show me registration papers for the animal. Is that right?

**ANSWER:** The short answer is “no.” This is a bit confusing because of some differences between State law and Federal law in this area. It is true that under North Carolina law (NC General Statutes Section 168-4.2), a person with a disability who claims the need to be accompanied on leased premises by a “service animal” can be required to show a tag issued by the NC Department of Health and Human Services (DHHS) or show that the animal is being trained or has been trained as a service animal. G.S. 168-4.3 states that the DHHS shall adopt rules for the registration of service animals. However, the DHHS has never adopted any such rules.

On the other hand, the Federal Fair Housing Act does not require assistance animals to be individually trained or certified. Given the fact that no rules have been adopted under NC regarding the registration of “service animals,” and since Federal law likely “pre-empts” or “trumps” NC law if there is a conflict between the two, landlords probably would be required to follow the Federal law. Therefore, you probably cannot require the prospective tenant to show you registration papers for her pet rabbit since that is not required under Federal law.

**QUESTION:** Well, if they don’t have to show me any papers, is there anything I can do to make her prove to me that she has a disability and that she actually needs the animal to help her with her disability?

**ANSWER:** You may not deny the prospective tenant’s request simply because you are uncertain whether or not she has a disability or has a need for a pet rabbit. However, if the prospective tenant’s disability is not readily apparent or known to you, it is permissible for you to ask her to submit reliable documentation of her disability and her need for an assistance animal. If the disability is readily apparent or known but the need for the assistance animal is not, you may ask her to provide documentation of the disability-related need for an assistance animal. For

example, if she claims that she needs the rabbit for emotional support, you may ask her to provide documentation from a physician, psychiatrist, social worker, or other mental health professional that the animal provides emotional support that alleviates one or more of the identified symptoms or effects of an existing disability. Such documentation is sufficient if it establishes that an individual has a disability and that the animal in question will provide some type of disability-related assistance or emotional support.

**QUESTION:** So all she needs is a letter from somebody like a psychiatrist saying she needs the rabbit for her emotional health?

**ANSWER:** If she provides sufficient documentation about her disability and her need for the rabbit, your landlord must provide an exception to a “no pets” policy to permit her to live with and use her pet in all areas of the premises where persons are normally allowed to go, *unless* doing so would impose an undue financial and administrative burden or would fundamentally alter the nature of the housing provider’s services. Her request may also be denied if the pet poses a direct threat to the health or safety of others that cannot be eliminated, or the pet would cause substantial physical damage to the property of others that cannot be reduced or eliminated. Such a determination must be based on objective evidence about the specific animal’s actual conduct.

**QUESTION:** Okay, one last question. May I collect a pet fee?

**ANSWER:** No. A person with a disability may not be required to pay a pet fee or deposit for an assistance animal, but he or she may be required to pay the costs of repairs for damage the animal causes to the premises.

**NOTE:** For more detailed information on assistance animals for people with disabilities in housing, click here to access a HUD Notice on the subject dated April 25, 2013:  
<http://www.ncrealtors.org/en/1013PMD-HUDNotice.pdf>

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