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Reasonable Accommodations in New York City Housing Court Cases for People with Mental Illness

WHAT IS A REASONABLE ACCOMMODATION?

In the context of a Housing Court proceeding, a reasonable accommodation is something that allows you to continue to use and enjoy your apartment even though the landlord is trying to evict you. The accommodation must be something that is necessary because of your disability.

MY LANDLORD HAS SUED ME IN HOUSING COURT. CAN I REQUEST A REASONABLE ACCOMMODATION BASED ON MY PSYCHIATRIC DISABILITY?

Yes, under the federal Fair Housing Act, landlords must provide their disabled tenants with reasonable accommodations if the accommodation does not cause an undue burden on the landlord's business. This means that if there is not a large monetary cost or other administrative difficulty to grant the accommodation, your landlord must provide it.

HOW DO I REQUEST AN ACCOMMODATION IF MY LANDLORD HAS ALREADY SUED ME IN HOUSING COURT?

In order to request an accommodation after a court case has started, you should do two things. First, you should write a letter to your landlord asking that the landlord give you the accommodation. You may want to include with the letter copies of any documentation proving that you need the accommodation because of your disability in order to use and enjoy your apartment. This documentation is not required unless your landlord asks for it, but providing it from the beginning may increase your chances of getting the accommodation. Second, you should include the request for an accommodation in an answer in Housing Court.

HOW DO I PUT AN ACCOMMODATION REQUEST INTO MY HOUSING COURT ANSWER?

Usually, accommodations are requested in cases called holdovers, where the landlord is trying to evict you for some reason other than not paying rent. In order to file an answer in a holdover proceeding, you should bring your court papers to the clerk's office in the Housing Court. It is best to go to the clerk's office and file the answer as quickly as possible after the court case starts. It is best to do it before your first court date, but if you are unable to get to the court before the first court date, you should do it on the day of your first court date. The clerk will give you a form on which you may write down your defenses.

In addition to any other legal defenses you believe you have, you should write that you are asking the Court to order your landlord to provide a reasonable accommodation. You should clearly state what you want the accommodation to be, and you should also write what your disability is, and why your disability causes you to need the accommodation.

In a nonpayment case, you will have to go to the clerk's office in order to answer and get a court date. In addition to telling the clerk any other legal defenses you have, you should tell the clerk that you are requesting a reasonable accommodation because of your disability. The clerk should include this defense on your answer.

WHAT KINDS OF ACCOMMODATIONS CAN I REQUEST?

Common accommodation requests in Housing Court are:

1. Requesting that the Court allow you to keep a pet even when the landlord has a no-pet policy, because you need the pet as an emotional support animal (your pet must not be a nuisance and must meet all other legal requirements for animals in New York City).
2. Requesting that the Court allow you to fix a hoarding problem in your apartment, rather than evicting you.
3. Where your behavior is the reason for the eviction proceeding, requesting time for new medication or treatment to take effect, and requesting that the Court order a probation-type period rather than evicting you.

WHAT WILL HAPPEN IN THE COURT CASE AFTER I ASK FOR AN ACCOMMODATION?

Once you have requested a reasonable accommodation for your disability, you should be sure to raise the issue with the judge and/or the judge's court attorney. The first courtroom you will be in is a resolution part, where part of the judge's job is to see if a case can be settled. You may be able to work with your landlord's lawyer to reach an agreement that allows for the accommodation you requested.

If you are not able to settle the case, you will be sent to a different courtroom for a trial. At a trial, you will have to prove several things: (1) that you are disabled under the definition of the Fair Housing Act; (2) that the accommodation you are requesting is reasonable; (3) that the accommodation you are requesting is needed *because of* your disability; and (4) that the accommodation is necessary for you to continue to be able to stay in, use and enjoy your apartment.

You should bring any documentation you have that proves that you are disabled, including certified medical records and certified documents from the Social Security Administration determining you to be disabled. If possible, you should try to have your doctor or another treatment provider present if you have to go to a trial. The testimony of your treatment providers will be the best way to prove that you are disabled, that your disability has caused the need for the accommodation, and that the accommodation will help you use and enjoy your apartment.

WHO CAN I CONTACT IF I HAVE QUESTIONS?

You may call MFY Legal Services, Inc.'s Mental Health Law Project on Mondays, Tuesdays, and Thursdays from 10:00 a.m. to 5:00 p.m. at 212-417-3830.

DISCLAIMER: This fact sheet gives general information for NYC residents; it is NOT legal advice.