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Keeping Pets as Emotional Support Animals in New York City Apartments

Some people with psychiatric disabilities may be able to keep a pet as an emotional support animal despite a no-pet clause in a lease. Federal and state anti-discrimination statutes require landlords to make reasonable accommodations for a person's disability. In some circumstances, a reasonable accommodation means that a tenant must be allowed to have a pet that functions as an emotional support animal. You can qualify to have an emotional support animal no matter what kind of housing you live in. In addition, the animal does not need to have any kind of training or certification.

CAN I HAVE A PET AS AN EMOTIONAL SUPPORT ANIMAL?

Not everyone with a mental illness will qualify to have an emotional support animal. You must meet the following requirements:

1. *You must have a disability.*

The legal definition of disability for the purposes of having an emotional support animal is that you are substantially limited in a major life activity. Simply having a diagnosed mental illness is not enough. If you receive Social Security Disability (SSD), Supplemental Security Income (SSI), or another form of disability benefits, you probably meet this requirement because you have been found unable to work, one of the major life activities.

If you are able to work and do not receive disability benefits, it may be more difficult to prove that you are disabled. However, if you can show that you are substantially limited in a major life activity, you might meet this requirement. Some major life activities include caring for yourself, performing manual tasks, walking, seeing, hearing, speaking, breathing, and learning.

2. *You must be qualified to live in the housing.*

You have to meet any income, age, disability, or other requirements of the housing.

3. *You must be reasonable in the type of animal you want to keep.*

A landlord only has to agree to a request if it is reasonable. Therefore, a landlord may deny a request to keep an animal that could damage the property, is noisy, or might harm other tenants. In those situations, the landlord's interest in maintaining its property in a safe manner would outweigh the tenant's interest in having the objectionable pet.

4. *You must need the animal in order to live in the housing.*

You will need to show that having the animal is necessary for you to fully use and enjoy your apartment. For example, having the emotional support animal may help you cope with the symptoms of your illness. If you have Major Depression, you might need the animal to motivate you to leave your apartment to take a dog for walks, take the pet to the veterinarian, or just to buy supplies.

WHAT SHOULD I DO IF I WANT TO HAVE AN EMOTIONAL SUPPORT ANIMAL?

You should get permission from your landlord before you get an emotional support animal. If you do not have permission, you risk eviction or having to give up your emotional support animal if your landlord learns about it.

In order to make the request you must reveal your disability to your landlord, including your diagnosis and the symptoms that make it necessary for you to have an emotional support animal. You should write a letter to your landlord explaining your disability and that you are requesting permission to have an emotional support animal. Let your landlord know that you are willing to work with him and will send additional information if he requests it and the request is reasonable.

Be sure to send all letters to the landlord by certified mail, return receipt requested, and keep copies of all your letters!

If you decide to ask permission, your request is much more likely to succeed if you submit a letter from a clinician such as a psychiatrist or therapist. The letter should include the following:

- How long the clinician has been treating you;
- Your diagnosis;
- That your disability limits a major life activity;
- That you need an emotional support animal in order to fully use and enjoy your apartment.

Make sure the clinician understands that the last factor, which states that you need the animal in order to take full advantage of living in your apartment, is absolutely essential. If you do not show the interconnection of your housing, your disability, and your animal, the landlord can deny your request.

WHAT SHOULD I DO IF THE LANDLORD DENIES MY REQUEST TO HAVE AN EMOTIONAL SUPPORT ANIMAL?

If your landlord denies your request, you can contact the New York City Commission on Human Rights and the New York State Division of Human Rights. Both can assist you in filing a complaint with their agencies. After the complaint is filed, the agency will investigate. If the agency believes your request

was wrongly denied, it will hold an administrative hearing, which can result in a decision that your landlord must allow you to have an emotional support animal.

New York City Commission on Human Rights 311 or 718-722-3131
www.nyc.gov/html/cchr/home.html

You must call to make an intake appointment if you would like to file a complaint.

New York State Division of Human Rights 888-392-3644
www.dhr.ny.gov

You can download a complaint form at the DHR website and send it to your regional office, also listed on the website.

WHO CAN I CONTACT IF I HAVE QUESTIONS?

If you live in Manhattan, Brooklyn or the Bronx you may call MFY Legal Services, Inc.'s Housing Project on Mondays, Wednesdays, and Fridays from 2:00 p.m. to 4:30 p.m. at 212-417-3888. If you are a mental health consumer you may call MFY's Mental Health Law Project at 212-417-3830 on Mondays, Tuesdays, and Thursdays from 10:00 a.m. to 5:00 p.m.

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

