Service Dogs And Emotional Support Animals: Man's Best Friend Becomes A Landlord's Biggest Headache

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Landlords in Iowa and elsewhere have been facing, with increasing frequency, difficult questions regarding man's best friend. While landlords must analyze each request by an existing or prospective tenant regarding the need for a dog on a case-by-case basis, landlords should consider the following general principles as a starting point to their analysis.

Applicable federal and Iowa law, including the federal Fair Housing Act and Iowa Civil Rights Acts, prohibit unfair and discriminatory practices in the housing arena. Protected classes include people with physical and/or mental disabilities. Generally, under the law, landlords have a duty to make reasonable accommodations for tenants with disabilities. In this context, a landlord's refusal to make a "reasonable" accommodation in its pet-related rules and/or policies that are "necessary" to afford an existing or prospective disabled tenant an "equal opportunity" to use and/or enjoy the leased premises equates to unlawful discrimination.

In recent years, federal agencies and courts have categorized dogs needed by disabled people into two categories: (1) service dogs and (2) emotional support dogs/animals. A service dog is one that is individually trained to do work or perform tasks, such as a seeing eye dog. An "emotional support" animal (also referred to as an "assistance" animal) is one that assists a person with a disability or otherwise provides emotional support that alleviates one or more symptoms or effects of a person's disabilities. An emotional support dog can be one with no specialized training. By way of example, if a tenant presents a valid note from his doctor documenting the tenant's need for his yapping Chihuahua for its therapeutic effects, including the lessening of the effects of the tenant's depression, then that dog, even if untrained, is an emotional support animal.

Most commonly, the reasonable accommodations that landlords make regarding the service dogs and emotional support animals of their disabled tenants are as follows: (1) waiver of a no-pets policy, (2) waiver of a maximum pet weight policy, and/or (3) waiver of a pet deposit. These accommodations assume that the existing or prospective tenant has properly documented the need for the dog. A landlord's refusal to make these types of accommodations is unlawful (in all reasonable likelihood).

Finally, a landlord should be familiar with the applicable city and state dog-related laws. In this regard, a landlord may ask the following question: What should I do when a tenant hands me a note from his doctor stating that the tenant's new 125-pound pit bull is needed as an emotional support animal? The answer can depend on the local laws. If there is an applicable vicious dog ordinance that altogether prohibits pit bulls, then the landlord can and must abide by that law, as all citizens must do. In that instance, the tenant's avenue for relief is to seek an exception to such ordinance from the governmental entity. Notably, many vicious dog statutes are vaguer than the example noted above, but landlords are always entitled to rely upon such statutes. For further information on this topic, please contact attorney Jodie McDougal.

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