



Kenosha Landlord Association

A Local Chapter of the Wisconsin Apartment Association

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To Our Members

Last month our President, Mark Nausieda, presented *Landscaping For Landlords*. Mark provided valuable information on how important landscaping can be in attracting tenants and adding to rental property value.

With fall and winter approaching landlords need to be working on their weatherization plans. There may be rebates currently available for replacing furnaces, hot water heaters, etc. with more energy efficient models.

At our next membership meeting on Wednesday, September 17th, we will discuss *Pre-Winterization Maintenance*. See page 8 of the newsletter for some helpful winterizing tips for both landlords and tenants.

September Meeting: Wednesday, Sept. 17th at the VFW, 6618 39th Avenue. Appetizers and networking at 6:30 pm. Meeting begins promptly at 7:00 pm.

DISCLAIMER: The Kenosha Landlord Association publishes this newsletter to create awareness of issues relating to the rental housing industry. Information is compiled from a variety of sources and the views and concerns expressed by the contributors do not necessarily reflect those of the editor or the Association. When necessary, we suggest you consult an attorney.

HUD Issues Notice on Assistance Animals and Reasonable Accommodations For Persons with Disabilities



Source: Tristan R. Pettit, Esq. Date: April 2013

Today the U.S. Department of Housing and Urban Development (HUD) issued a notice on assistance animals and reasonable accommodations for persons with disabilities. Not to long ago I wrote a post that dealt with this subject. HUD's new notice also adds clarifying information to that post.

Disability-related complaints, including those that involve assistance animals, are the most common discrimination complaint that HUD receives per John Trasvina, HUD Assistant Secretary for Fair Housing and Equal Opportunity, so HUD felt a need to publish this Notice to provide further guidance on the topic. The notice will provides landlords and management companies with an explanation how to properly treat a request by a tenant or their guest for a reasonable accommodation to the landlord's "no pet" policy. Below are some highlights from the Notice but I strongly encourage everyone to read the entire Notice.

Highlights:

1. While the definition of a "service animal" under the ADA has been limited to include only dogs that have been specifically trained (and it specifically excludes emotional support animal) this limited ADA definition DOES NOT limit a landlord's obligations to make reasonable accommodations for assistance animals under the Fair Housing Act and Section 504 of the Rehabilitation Act of 1973, (or Wisconsin's Open Housing Law for that matter)
2. A reasonable accommodation analysis must be considered when persons with disabilities use (or seek to use) assistance animals in housing where the landlord forbids residents from having pets or otherwise imposes restrictions or conditions relating to the pet.
3. Assistance animals provide many disability-related functions including, but not limited to:
 - a. guiding individuals who are blind or sight-impaired
 - b. alerting individuals who are deaf or hard of hearing
 - c. providing protection or rescue assistance
 - d. pulling a wheelchair
 - e. fetching items
 - f. alerting persons to impending seizures
 - g. providing emotional support to persons with disabilities who have a disability-related need for such support.
4. For purposes of a reasonable accommodations request, there is no requirement that the animal be individually trained or certified.
5. Landlords are to evaluate a requests for a reasonable accommodation to posses an assistance animal in a rental unit using the general principles applicable to all reasonable accommodations requests.
6. After receiving such a request a landlord must consider the following:
 - a. Does the person have a disability?
 - b. Does the person have a disability-related need for an assistance animal?

If the answer to both questions is "yes" then the federal laws (and Wisconsin's Open Housing laws) requires a landlord to modify or provide an exception to its "no pets" rule or policy so that the tenant can have an assistance animal.
7. The request for an assistance animal can be denied, even if the answers to the above questions were "yes", if:
 - a. the specific assistance animal poses a direct threat to the health and safety of others that cannot be reduced or eliminated by another reasonable accommodation.
 - b. the specific assistance animal would cause substantial physical damage to the property of others that cannot be reduced or eliminated by another reasonable accommodation.
8. Breed, size, and weight limitations may **not** be applied to an assistance animal.
9. Landlords may not require applicants and residents to pay a deposit for an assistance animal.
10. Landlords may require a tenant to cover the cost of repairs for damage caused by an assistance animal to the rental unit or common areas after it has occurred.
11. Landlords may ask individuals with disabilities who's disability is not readily apparent or known to the landlord, to submit reliable documentation of a disability and their disability-related need for an assistance animal. The documentation is considered sufficient if it establishes the person has a disability and that the animal will provide some type of disability-related assistance or emotional support.
12. A determination as to whether a person has a disability-related need for an assistance animal involves an individualized assessment. There are no bright line rules here. The analysis is very fact specific.
13. A delayed response to a request for a reasonable accommodation could be considered a violation if the delay is solely to frustrate the process.

So Let's Talk About... Companion/Comfort Animals In Rental Properties

Source: Tristan R. Pettit, Esq. Date: April 2013

The terms comfort animals and companion animals interchangeably throughout this article.

So we are all on the "same page" a companion animal is an animal that is **NOT** specifically trained or certified but rather provides a tenant with a disability with emotional support. Specifically trained and certified animals that assist people with disabilities is beyond the scope of this post. Wisconsin does not have a specific statute related to comfort animals. Many people improperly think that sec. 106.50(2r)(4)(bm), Wis. Stats. entitled "Animals Assisting People with Disabilities" applies to companion animals. It does not. That section deals only with specially trained and certified animals that help people with mobility, vision or hearing impairments. Comfort animals are not specially trained and/or certified and they do assist people with disabilities affecting more than just mobility, hearing and vision.

So what is the applicable Wisconsin law dealing with companion animals or comfort animals if they do not fall under this provision? Comfort animals are dealt with under a much more broad section of fair housing law dealing with "reasonable accommodations" which can be found at sec. 106.50(2r)(4), Wis. Stats. A "reasonable accommodation" is a request made by a tenant for a change in a landlord's rules, policies, practices or services that are associated with housing when such accommodation is necessary to afford an individual equal opportunity to use and enjoy housing.

For example, a request by a tenant to keep a companion animal is a request for a reasonable accommodation to a landlord's "no pet" policy.

The Law: It is considered to be discriminatory to refuse to allow a tenant's request to keep a comfort animal if they meet the following requirements:

1. The tenant meets the definition of having a disability under Wisconsin or federal law ("an individual with a physical or mental impairment that substantially limits one or more major life activities, a person regarded as having such an impairment, or a person with a record of such an impairment").
2. The accommodation must be necessary to afford the disabled tenant an equal opportunity to use and enjoy the rental property.
3. There must be an identifiable relationship (or nexus) between the tenant's disability and the request.

So in the case of a request for a companion animal, the tenant must demonstrate a nexus between their disability and the function or service that the companion animal provides. A landlord may request reliable disability-related information from a tenant that is necessary to:

- (1) verify that the tenant meets the definition of having a disability,
- (2) describes the needed accommodation, and
- (3) shows the relationship between the two.

If the disability is open and obvious then the landlord should not request verification of the disability from the tenant. The tenant's specific disability need not even be disclosed – just the fact that the tenant has a disability is sufficient. A tenant's request for a reasonable accommodation may be oral or in writing and the actual term "reasonable accommodation" need not be used. The request can even be made by someone on the tenant's behalf.

Continued on page 4

**Landlord/Crime Free
Multi-Housing Rental Seminar
September 9th & 11th 6pm to 10pm
This is a two day class and you will
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Learn how to attract/retain re-
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Come and learn about all of the new laws!!!!

So Let's Talk About . . . Companion/Comfort Animals In Rental Properties (Cont)

Practical Effects:

In case you are wondering, the threshold that a tenant must meet in order to be able to keep a comfort animal is very low.

It is not even required that the tenant's doctor confirm that the tenant has a disability. [HUD and DOJ's Joint Statement on Reasonable Accommodations Under The Fair Housing Act](#) (May 17, 2004) states that a doctor or "other medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the tenant's disability" may provide the verification of the tenant's disability.

As mentioned previously, a tenant's comfort animal need not be specially trained or certified. A comfort/companion animal can be any type of animal that the tenant wants. It could be the dog or cat (or mouse, rat, lizard, fish, . . .) that the tenant owned prior to becoming disabled. It could be the stray dog that the tenant found walking down the alley last week. It could be a cat that the tenant's mother no longer wants in her house. It could be the rat that the tenant bought at the local pet shop.

I have read articles, case law, and been involved in cases in which all kinds of animals have been requested to serve as a tenant's companion animals . . . a miniature horses (because it would live longer than a dog and the tenant's mental health disability would be exacerbated by the death of another dog that wouldn't not outlive her), 5 cats (each one allegedly assisted the person with a different aspect of their disability), snakes (tenant was allergic to dander), and pit bulls (why . . . just because). There is no limit on the type/breed, size, or age of a companion animal. So if the tenant wants a Bull Mastiff as their companion animal even though they live in an efficiency apartment and a much smaller dog could serve the same purpose, they can do that.

A landlord can deny a tenant's request for a companion animal if it:

1. Poses a direct threat to the health or safety of others unless the threat can be eliminated or greatly reduced.
2. Results in substantial physical damage to the property of others unless the threat can be eliminated or greatly reduced.
3. Poses an undue financial burden and administrative burden.
4. Fundamentally alters the nature of the housing provider's operations.

For example, a landlord could exclude a tenant's comfort animal if that animal's behavior poses a direct threat because it attacked another tenant.

In order to make a decision to deny a tenant's reasonable accommodation request to keep an animal that poses a direct threat to others safety, you will be required to go through a very fact intensive analysis. You cannot just refuse the tenant's pit bull comfort animal just because you might believe that all pit bulls are inherently dangerous. There must be a direct threat not just a speculative risk. Even if the animal was once dangerous, if the tenant takes the animal to obedience training, administers medication, or purchases the animal equipment (like a muzzle) which causes the animal to no longer be dangerous, then it may no longer be reasonable to exclude the animal.

I have worked with many landlords and management companies in analyzing whether a tenant's request for a reasonable accommodation to keep a companion animal should be granted. Without a doubt the single most difficult concept for my clients to accept is that a comfort animal **IS NOT A PET**.

I find it easier for landlords to understand this concept if they think of the comfort animal as an assistive device such as a wheelchair, crutches, or pain medication. By thinking this way, many landlords will be better able to keep themselves out of trouble. Let me explain provide an example.

One of my clients generally understood that he had to allow his tenant to keep a comfort animal but he was wondering if he could at the very least require the tenant (and the companion animal) to live in the one building in his apartment complex that allowed pets. It was a very innocent question and one that I sure many landlords might have themselves.

The answer is a resounding "NO." Why is that?

Remember, a companion animal is not a pet. Again, think of the companion animal as an assistive device such as a wheelchair. Would it be acceptable to require all tenants that use wheelchairs to live in one building together? Would it be OK to require all tenants that are prescribed antidepressant medication to live on the same floor? Of course not. Well the same goes with the tenant with the companion animal.

Since comfort animals are not pets a landlord is also not allowed to make the tenant that has one enter into a [Pet Agreement](#) or pay a monthly pet fee or even a pet deposit.

Having said that, a tenant that has a companion animal is still responsible for the animal's behavior and any damage that it may cause. For example, the tenant must still pick up after the companion animal. The tenant must still keep the comfort animal on a leash and prevent it from jumping on or harming others. The tenant must still prevent the comfort animal from making excessive noise or damaging the rental property.

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So Let's Talk About . . . Companion/Comfort Animals In Rental Properties (Cont)

If a tenant does not take responsibility for the actions of their companion animal a landlord has every right to serve that tenant with the appropriate notice to correct breach or vacate and evict if them if needed. Since comfort animals are not specially trained or certified poor behavior is often an issue. I have had to evict several tenants with companion animals as a result of their poor behavior. In one case the companion animal which happened to be a dog repeatedly escaped from the rental unit and ran free in the common areas of the building. Another case the animal (a dog again) bit another tenant. Another, involved a dog that crapped all over the lawn and the tenant refused to pick up after it.

Conclusion: The popularity of comfort/companion animals is not waning. I expect that landlords and management companies will be getting more and more requests as more people are being diagnosed and treated for mental health issues for which a companion animal may prove helpful. Not to mention that many war veterans are returning with PTSD, depression, and/or anxiety, for which comfort animals are being prescribed. And there will always be those tenants that just want to have a pet without having to pay a pet fee or move to a rental unit that allows pets, so they buy a pet, play the system, and “disguise” their pet as a comfort animal. If you have not already dealt with a request by a tenant for a reasonable accommodation to your “no pet” or “limited pet” policy, I am certain that you soon will. As such, it is very important that you educate yourself on the applicable laws so that you can properly handle such a request from a tenant and not run afoul of federal or state laws.

Landlord-Tenant Wordsearch

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 CHAD
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 Y H B U L U X J Z T C P L Z I C I Y O B
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Meet A Member

Doug Powell



1. Number of rentals?

I own 460 plus rentals.

2. Years of landlording experience?

I have been in the rental industry for 30 years.

3. What is your hardest job?

Finding good residents/tenants

4. Your biggest mistake?

Letting a tenant stay after eviction and hoping to collect my back rent. It never usually works.

5. New landlord advice?

Don't overpay for a property.

6. Favorite type of tenants?

One that pays rent on time, is quiet and keeps the unit clean.

7. Best way to find/attract tenants?

Tenant referrals and the Internet.

8. One way to keep good tenants?

Fix and maintain property. Do the work orders ASAP.

9. Money saving maintenance tip?

Try to do as much as possible yourself ie., maintenance, cleaning units, lawn care. Don't always buy the cheapest maintenance supplies.

10. How do you encourage on-time rents?

I tier late fees. For example \$25.00 after the 5th; \$50.00 after the 10th.

11. How have you collected past due rent?

5 day notices. I try not to let anyone get over 30 days.

12. Trick a tenant played on you?

I went to collect rent and the tenant ran out the back door to avoid me.

13. What's rewarding about being a landlord?

Being your own boss while building sweat equity.

14. How has Kenosha Landlord Association helped you?

KLA helped me on the process for evictions from start to finish, including what forms to use. The Association keeps me informed on new laws and changes in the law.

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Winterizing Your Rental Property Helpful Tips For Landlords and Renters

Source: [https://www.ezlandlordforms.com/articles/November 2012](https://www.ezlandlordforms.com/articles/November%202012)



The days are growing shorter and the nights colder, which means it is time to winterize both homes and properties to save money and avoid property damage and lawsuits. Winterization is not just for the northern states; even properties in southern climates can experience freezes and damage from cold, wet weather.

Creating a checklist of items that should be updated, changed or checked will ensure that any required repairs will be done in a timely manner - before the damage is caused. Interior items to inspect include:

- **Plumbing:** In vacant properties in particular, landlords and property managers should drain all the water from the pipes and shut off the water, to prevent freezing and bursting. Burst pipes are a landlord's nightmare, because when the pipes thaw and the water starts running again, it will continue to do so until someone appears at the property to shut off the water. Insurance companies will often decline claims caused by burst pipes, due to either landlord negligence or the fact that many rental dwelling policies do not cover the property while vacant and include clauses requiring the landlord to obtain separate insurance while the property is vacant.
- **Water Heaters:** It's prudent to inspect hot water heaters for any possible leaks. Handling this now may reduce costs for potential water problems during the cold winter months.
- **Furnaces:** Landlords and property managers who maintain single family homes should consider having furnaces serviced as well, as faulty furnaces can cause problems ranging from smoke to gas leaks to fires to simple breakdowns on the coldest day of the year when they are under the most stress.
- **Windows:** Every single window should be inspected for drafts (or cracks). Make sure to repair or replace the windows that might be drafty or cracked, to lower utility costs, make the tenants happier and increase your tenant retention rate.
- **Doors:** Inspect your doors for warping and excessive wear. If necessary, replace the weather stripping to prevent drafts under and around the doorway.
- **Fireplaces:** Prior to use, all fireplaces should be checked for proper ventilation, in an effort to prevent smoke and possible fire damage.

Remember to check the following on the exterior of your property:

- **Roofs:** Check the roofs of your buildings for excessive wear and leaks, and repair *before* that first winter storm. Such repairs help the roof endure the heavy snow or rain, withstanding the weight and pressure of bad weather. This simple tip can save you thousands in potential roof damage.
- **Chimney:** If the rental property has a chimney, make sure to inspect it. Birds and squirrels often nest in chimneys, which can block the flow of smoke and cause a smoke and fire hazard. Be sure to remove any blockage or nests before lighting the fireplace for the first time of the season.
- **Gutters:** Check with tenants about whether they have noticed any gutter leaks, because freezes will make the cracks and leaks worse, and the leaking water can cause basement leaks, walkway damage, patio damage, and can create icy conditions that can lead to falls (and lawsuits).
- **Walkways and Stairs:** Make sure to inspect stairways and all walkways for breakage or cracks. The combination of snow, ice and rain is a recipe for potential disaster; trips, falls and lawsuits can easily be avoided with some minor foresight.
- **Balcony and Patios:** Check these routinely for signs of damage, but especially when winter arrives the freezing and thawing of ice can accelerate damage to the wood. This creates a potentially dangerous situation for your tenants, which can mean liability for the landlord and property manager.
- **Outside Windows:** Check the sealant and caulking in and around the outside of your windows, and consider replacing it. Even if the window is sealed on the inside, if the outside is not handled accordingly, a draft can still result.

Once the first major snowstorm or cold spell comes through town, contractors' phones will be ringing off the hook with requests to service furnaces, fix roof leaks, and clean out fireplaces and chimneys, so call them before it grows too cold, and avoid the backlog and heightened prices!



Kenosha Landlord Association

P.O. Box 1505

Kenosha, Wisconsin 53141

RETURN SERVICE REQUESTED



Next Meeting

VFW

66 18-39th Ave

On our regular
3rd Wednesday the month

September 17, 2014

7:00 P.M. for meeting

Appetizers & Networking at 6:30 pm Meeting at 7 pm

***Pre-Winterization
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