

Companion Animals and Service Animals

Service and companion animals are more than pets. They are working animals that help people with their disabilities. Service animals do tasks such as guide people who are blind. Companion animals offer emotional support to people who suffer from anxiety and depression. The Fair Housing Act is a federal law that recognizes the importance of service and companion animals. This law does two things:

- It prevents landlords from discriminating against people with disabilities, and
- It requires landlords to make reasonable accommodations for people with disabilities in certain cases.

In most cases, a landlord cannot refuse to rent to you if you have a service or companion animal. If you already live in an apartment and your lease says no pets, you can ask for a reasonable accommodation to keep the animal.

What is a reasonable accommodation?

A “reasonable accommodation” is a change in rules, policies, or services that allow a person with a disability to use and enjoy their home just like anyone else. The Fair Housing Act requires some landlords to make reasonable accommodations for people with disabilities when needed. Below are examples of reasonable accommodations:

- Allowing a tenant to install a wheelchair ramp to their apartment.
- Giving a disabled tenant a reserved parking space even though spaces are normally first come first serve.
- Allowing a blind tenant to have a guide dog even though the lease does not allow pets.

Are all landlords required to follow the Fair Housing Act?

No. Some “small” landlords do not have to follow the Fair Housing Act. If the landlord owns fewer than 4 rental units and does not use a broker or agent, then the landlord does not have to follow the Fair Housing Act. This means the landlord does not have to give you a reasonable accommodation.

What if my landlord says it is okay to have a pet?

If your landlord says it is okay for you to keep a pet, make sure you get this in writing. Even if the landlord tells you it is okay, get something in writing!

Does my landlord have to let me keep my pet if it is a service or companion animal?

It depends. Under the Fair Housing Act, landlords have to make reasonable accommodations for people with disabilities in certain cases. If you are disabled and your pet is a service or companion animal, ask your landlord for a reasonable accommodation to keep your pet.

Your landlord can deny the reasonable accommodation if:

- You are not disabled;
- The animal would cost your landlord a lot of time or money;
- The animal would change the nature of the housing services the landlord provides;
- The landlord has actual evidence that this animal would damage the property or endanger other tenants; or
- The landlord rents a house or apartment that is not covered by the Fair Housing Act.

What are the requirements for a reasonable accommodation?

To get a reasonable accommodation for your service or companion animal, you must show that:

- You are disabled, and
- The service or companion animal would help you with your disability.

In most cases, if you can show those two things, your landlord has to let you keep your service or companion animal.

What does disabled mean?

This means you have a physical or mental impairment that makes it difficult for you to do daily activities, such as walking, seeing, hearing, working, learning, etc. Mental illness and depression are disabilities if they limit your daily activities.

How do I show that my assistance animal helps me with my disability?

You need to show that the animal performs tasks for you to help with your disability, such as pulling your wheelchair or alerting you to seizures. You can also show that your animal provides emotional support that helps with the symptoms or side effects of your disability. It is not enough to show that you will suffer severe emotional distress if you have to give up your pet. You have to show that your animal helps you with your disability.

I am disabled. How can I ask for an accommodation to keep my service or companion animal?

You should request the accommodation in writing. A landlord may request more information from your doctor, therapist, or other professional who is familiar with your disability. You should consult an attorney to find out what type of information you'll need to give your landlord.

Can the landlord increase my rent or charge a pet deposit for my service or companion animal?

Usually not. However, you are still responsible for any damage caused by the animal. The landlord can even evict you if you fail to pay for damages caused by your service or companion animal. Or, if the animal bothers other tenants or you fail to clean up after the animal, the landlord may be able to evict you.

Can the landlord make rules about the kind or number of companion animals I can keep?

Maybe. Landlords cannot make rules regarding the size, number, or breed of assistance animals without good reasons. However, landlords can deny requests for accommodation if the request is not reasonable. There are no hard and fast rules for reasonableness, but certain situations come up often. For example, a properly supported request for a large companion animal is likely reasonable, as is a request for a companion pit bull. This is true regardless of the landlord's pet policies or restricted breed list. On the other hand, a request for ten companion dogs would be unreasonable, as would a request for a companion great dane in a small dorm room. A restriction based solely on breed (e.g. pitbull) would not be lawful, nor would a restriction based on number or size of the dog alone. However, number and size at least are both factors in the reasonableness inquiry.

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[disability discrimination around housing](#) [federal fair housing act](#) [other discrimination](#) [other federal fair housing act](#) [reasonable accommodation](#) [reasonable accommodation defense](#)

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[Animales de compañía y animales de servicio](#)

Print

Table of Contents

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