

RIGHTS STUFF

A Publication of The City Of Bloomington Human Rights Commission



CITY OF BLOOMINGTON

FAQs on Service and Emotional Support Animals

At the BHRC, we frequently get questions from both landlords and tenants about service animals and emotional support animals. On its web page, HUD.gov, Housing and Urban Development provides pretty clear answers to these questions.

What is an assistance animal?

An animal that works, provides assistance, or performs tasks for the benefit of a person with a disability or that provides emotional support that alleviates one or more identified effects of a person's disability.

What are the obligations of landlords? Landlords can't refuse to make reasonable accommodations in rules, policies, practices or services when such accommodations may be necessary to afford a person with a disability the equal opportunity to use and enjoy a dwelling.

What are some examples of reasonable accommodations

- Granting exceptions to a no-pets policy.
- Waiving pet deposits, fees or other rules for assistance animals.
- Waiving breed or weight restrictions.



When is a request for an accommodation not reasonable?

- When granting the request would impose an undue financial or administrative burden on the landlord.
- When granting the request would fundamentally alter the essential nature of the landlord's operations.
- When the specific assistance animal in question would pose a direct threat to the health and safety of others, despite any reasonable accommodations that could eliminate or reduce the threat.
- When granting the request would result in significant physical damage to the property, despite any reasonable accommodations that could eliminate or reduce the physical threat

BHRC Staff

Barbara E. McKinney,
Director

Nicole DeCriscio Bowe,
Assistant

Commission Members

Ryne Shadday, Chair

Carolyn Calloway-Thomas,
Secretary

Valeri Haughton-Motley

Byron Bangert

Pamela Jackson

Latosha Williams

Mayor

John Hamilton

Corporation Counsel

Philippa Guthrie

BHRC
PO BOX 100
Bloomington, IN
47402
812.349.3429

human.rights@bloomington.in.gov

Not All Bad Treatment is Discriminatory

It's not uncommon for owners of rent-controlled apartment buildings to try to get existing tenants to move out so they can raise the rent. Iris Holdings Group allegedly did that to tenants of a building it owned in Brooklyn, but the tenants did not have evidence that Iris's actions were motivated by race discrimination.

Iris purchased the building in 2016, and eventually, the only remaining tenants were African American or Afro-Costa Rican. Iris allegedly did the following to get the remaining tenants to move out:

- made buyout offers;
- threatened rent increases;
- threatened to refrain from making any repairs;
- claimed they were going to lease the building to a nonprofit, and the building would soon be filled with homeless people and veterans, which “won't be pleasant and you will want to move;”
- hired renovators who exposed the tenants to unsafe and uninhabitable living conditions, including making holes in the ceilings and walls, making one tenant have to use an umbrella in her bathroom to have privacy and another tenant have to tape a garbage bag over his shower so workers in the upstairs apartment could not see him; and
- allowed the New York fire department to do training in the building, which led to the tenants' doors being broken down by the trainees.

The tenants sued, alleging that the landlord had discriminated



against them in housing on the basis of race. The court found that the landlord had created a hostile environment. But it did not agree with the plaintiffs that they had shown that the hostile environment was motivated by race discrimination.

The plaintiffs said that if the landlord had rented out the building to homeless people, they would “likely be people of color” and thus the landlord was saying that it would be unpleasant to live with people of color. The court could not agree that a “reference to homeless individuals is synonymous with African American people.”

One plaintiff said that one of the defendants had told him that he “looked like he had money.” The court said it was unclear how “this comment relates in any way to any racial stereotype about African Americans.”

The court dismissed the fair housing complaint.

The case is Brown v. Fire Department of New York, 2020 WL 6940992 (D.Ct. NY 2020). If you have questions about fair housing, please contact the BHRC.

RIGHTS STUFF'S MISSION

The purpose of Rights Stuff is to provide information about civil rights litigation as a way to encourage adherence to best practices for landlords, providers of public accommodations and employers. We do this by publishing relevant and timely articles from around the country. Please see the reports in this issue to learn more.

New York City Police Department Changes Policy on Hijabs

As a result of a lawsuit, the New York City Police Department has agreed to change its policy on requiring Muslim women to remove their hijabs for mug shots. Observant Muslim women sometimes wear a head covering, called a hijab, when in the presence of men who are not their husbands or members of their family.

Jamilla Clark is a Muslim woman who had been arrested for violating an order of protection. She said she had been ordered to remove her hijab while she was detained for hours in a holding cell in Manhattan. She broke down in tears while she was in the holding cell. When the camera flashed to take her photograph, she said she felt naked.

Arwa Azix, another Muslim woman was arrested on similar charges in Brooklyn. She said police made her pull down her hijab for an official arrest photo as she stood in a crowded hallway with dozens of male prisoners. She started crying while they took photos of her bare head and hair from several angles.

Under the terms of the settlement, NYPD agreed to train its officers to “take all possible



steps, when consistent with personal safety,” to allow prisoners to keep their headwear on in order to respect their “privacy, rights and religious beliefs.” The policy allows NYPD to require prisoners to remove headwear if they are searching for weapons or contraband, or if the officer believes “the head covering presents a risk to the safety of the prisoner or others.”

(Article based on “N.Y.P.D. Will No Longer Force Women to Remove Hijabs for Mug Shots,” by Alan Feuer, published in The New York Times on November 9, 2020.) If you have questions about religious discrimination, please contact the BHRC.



FOLLOW US ON FACEBOOK

Get up-to-date information and additional content.
Find us by searching on Facebook for
City of Bloomington, IN - Human Rights Commission

Mail Carrier Loses Disability Lawsuit

Jose Vargas is a Latino who began working for the U.S. Postal Service as a mail carrier in 2005. Mail carriers have to be able to carry up to 35 pounds in their shoulder bags, and have to be able to shuffle mail and equipment weighing up to 75 pounds between the post office and a satellite location.

Vargas hurt his foot on the job and went on workers' comp leave. In March, 2011, his doctor placed him on work restrictions, saying he could not lift or carry items that weighed more than 15 pounds. He asked the post office to either restructure his route to cut out lifting and carrying heavy loads, or to assign him to light duty. The post office declined to restructure his route, and had no light duty assignments available. So he went on paid sick leave and then sued the post office for discriminating against him on the basis of his disability and/or race. He lost.

To win a lawsuit under the Americans with Disabilities Act (ADA), the plaintiff has to show that he is a qualified individual, one who is able to perform the



essential functions of his job. Vargas could not perform the lifting requirements of his job as a mail carrier, and did not identify any reasonable accommodations that would have enabled him to do so. The court said that restructuring his route was not a reasonable request, as it would have forced the post office to assign an essential function of Vargas's job to someone else. The court said that "Employers need not reshuffle staff and resources if doing so would

require reallocating an essential function from the plaintiff to another worker." Nor was the post office required to create light duty work for Vargas.

The court said that Vargas provided no evidence of race discrimination on the part of the post office.

The case is Vargas v. DeJoy, 980 F. 1184 (7th Cir. 2020). If you have questions about the ADA, please contact the BHRC.

UPCOMING BHRC MEETING

Currently, the BHRC meets via Zoom. That link can be found on the City of Bloomington's online calendar at bloomington.in.gov.

The next BHRC meeting will take place at 5:30 p.m. February 22, 2021.