

Litigation: Is your Child a Runner?

The Importance of a Reasonable Modification

By: Matthew Dietz

Some children with autism, developmental or intellectual disabilities may wander off without any comprehension of possible danger. This might include running off from adults at school or in the community, leaving the classroom without permission, or leaving the house when the family is not looking. While most children are drawn to water, many autistic children seem even more fascinated by it -- and they're fearless.

On April 29, 2012, Hannah Sackman, a seven year old Autistic little girl drowned when she eloped from a housing development at military housing in Fort Gordon. When Hannah's mother was concerned with the size of the fence and the locking mechanism of the fence, she asked the management company if she could install additional locks on the doors that were higher up and out of Hannah's reach. The house had three exterior doors and all of them had a locking mechanism on the knob and a dead-bolt - both of which could be unlocked from the inside with a simple twist and without using a key and Hannah's mother was concerned she would figure out how to open them. In response to her request, the management said, "No, it was against policy" and would damage the doors. In 2013, Hannah's parents sued the housing manager under the Fair Housing Act for the death of their daughter, and the case settled for an undisclosed amount in 2015.

What happened to Hannah Sackman is not unique, and the Fair Housing Act requires housing providers to allow persons with disabilities, or those associated with them, to modify the premises if the modification is necessary for the person with a disability. Usually, these modifications are done at the expense of the person with a disability; however, for residents of public housing or other housing that is federally funded, the modifications must be done at the expense of the housing provider. These modifications can be as simple as a lock on a front door, or grab bars in a shower; or as complicated or expensive, such as a pool lift, or installing ramps or sidewalks.

Kim Johnson came to Disability Independence Group because she was afraid to live in a home that would not be safe for her daughter. Kailea is a ten year old girl who lives with Fabry disease, which is a rare genetic disorder. Along with a developmental disability, Kailea also suffers from episodes of pain, is legally blind, hard of hearing, and has problems with her gastrointestinal system and a cecostomy. She requires twice daily flushing of her stoma which takes hours and hours of time. Kailea is a runner, and whenever she has a chance, she tries to escape. She knows how to unlock doors and turn handles.



In March of 2016, Kim was looking for a new rental home in Largo, Florida and found the perfect home. *Kailea, Kim and Mystic Johnson* During the showing of the home and throughout the leasing process, Kim and her mother, Donna, spoke with the leasing agent, and explained how urgent it was that they move and the needs of Kailea's disability, including her bathroom needs, and her service animal Mystic. Then, with the help of Donna, Kim entered a lease for the home. After signing the lease, the leasing agent, instructed Kim on the use of the front door lock. At that time, Kim said that she would need to install a chain lock on the door to keep Kailea inside since she has a tendency to elope. As with Hanna Sackman's mother, Kim was concerned with the locking mechanism and wanted a mechanism that was higher up and out of Kailea's reach.



The leasing agent refused. Kim explained that a chain lock was the most reasonable modification asserting her rights under the Fair Housing Act, in order for her daughter ..."to be able to have an equal opportunity to have safe access to the majority of the home." The leasing agent and owner refused to allow Kim to install a higher locking mechanism, as they believed that a chain on the door would damage the door. Then the lessor refused to return the money Kim spent on the home, and refused to allow her to find another home that would be suitable for Kim and her daughter.

Reasonable modification in housing is the law. A landlord cannot legally deny a reasonable modification to a home. In 2008, the U.S. Department of Justice and the U.S. Department of Housing and Urban Development issued [joint guidance on the requirements relating to reasonable modifications under the Fair Housing Act](#).

Adding a chain lock to the front door is the most reasonable, most effective modification given Kailea's disability. The chain-lock modification is the most reasonable modification because the chain lock would be out of K.J.'s reach and would successful prevent K.J. from eloping. Pursuant to HUD's guidance, adding a chain-lock to the front door is necessary because the other suggested modifications will not be effective. By denying Kim and her daughter Kailea an accommodation, this landlord denied them a safe home, solely due to Kailea's disability.

Disability Independence Group is pleased to protect the rights of children, like Kailea, to be able to live safely in the community.