

What does this have to do with the Fair Housing Act?

Persons with disabilities and their families or others associated with them are protected from discrimination under the Fair Housing Act. Discrimination includes denying a person housing by evicting them because of a disability. If a person is evicted from their home because of a disability-related activity then this may be a violation of the Fair Housing Act.

What happens if the tenant's behavior is dangerous or threatening?

If a person poses a direct threat to the health or safety of other individuals, then the person can be evicted. But, the threat must be a threat based upon actions, and not based on fear, speculation, or stereotype about a particular disability or persons with disabilities in general. So, before a person with a disability is evicted because of a direct threat, a housing provider must rely on objective evidence, such as threatening behavior, and the assessment must include the following:

- (1) the nature, duration, and severity of the risk of injury;
- (2) the probability that injury will actually occur; and
- (3) whether there are any reasonable accommodations that will eliminate the direct threat.

All interesting information, but how do I inform my landlord that I am not a danger?

(1) Disclose your disability.

A housing provider does not need to determine if a tenant is a direct threat or provide any accommodation if the landlord does not know the tenant has a disability.

(2) A reasonable accommodation must be requested for a rule or regulation.

Most landlords have rules against such disturbances, and if a tenant has a disability, and needs an accommodation of the rule, when such accommodations may be necessary to afford a person with a disability an equal opportunity to use and enjoy a dwelling. The request will not be granted if the request would impose an undue financial and administrative burden on the housing provider or it would fundamentally alter the nature of the landlord's operations. In a case like Ryan's, the reasonable accommodation would be to excuse the violation of the rule because of his disability.

(3) Provide information necessary for the reasonable accommodation and to alleviate the concern of the direct threat.

A housing providers need only the information necessary to apprise them of the disability and the desire and possible need for an accommodation. For a threatening act, it is important to demonstrate intervening treatment or medication that has eliminated any direct threat. All this should require is a letter from a doctor or therapist that attests to the disability and how the tenant is not a direct threat, and any continuing treatment that would alleviate this concern.

Can there be any charges or retaliation for requesting an accommodation?

No. There can be no fees, extra charges or limitations placed upon a person's tenancy because of their need for a reasonable accommodation. If the offending conduct occurs again, then the same analysis needs to be done to determine whether the tenant is a direct threat.