

## It's not my fault – Autism and Fair Housing

By: Matthew Dietz

Diane Danforth called frantically, she was going to be evicted from her home of 26 years because her 26 year old son, who is Autistic, had an outburst. Ryan's grandpa recently died and left him his car, which Ryan parked by the management office. There was a sign placed on the windshield that the car had to be moved the following day so the trees can be trimmed. So, Ryan read the sign, and moved the car down the street, but what Ryan did not know or understand was that the management was going to trim all of the trees for the entire street.



Matthew Dietz and Ryan, Diane, Roy Danforth  
Photograph by Melanie Bell, Daily Business Review

When Ryan walked by the management office the following day, his grandpa's car was being towed and he could not understand why it was being towed if he followed the instructions. He went to the management office and knocked. The door was locked, but he knew someone was inside and no one would respond to him. Ryan was upset and banged on the door and cursing for them to stop towing his car. Ryan called the police because management refused to respond, the management office called the police because Ryan was banging on the door and cursing. The police and Ryan's father arrived on the scene, and Ryan went home and the car was released from the tow truck.

Ryan is autistic, and like many others who are autistic, he has difficulties in understanding and expressing language, and takes what is said or written very literally. In addition, he has additional difficulties in understanding and responding to typical social interactions. For the 26 years that he has lived at his home, he has never been a danger to anyone, and is a dedicated worker at a local casino. He just wanted to know why his grandpa's car was being towed when he followed the directions.

The next thing the Danforths discovered is that they were being evicted for Ryan's threatening activity at the management office. They did not know what to do.

**They did not need to move. Ryan and his family are protected by the Fair Housing Act.**

### 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.

**Conclusion:**

At Disability Independence Group, we focus on providing the tools for people on the autism spectrum the tools that they need to advocate for themselves. The availability to live where one chooses is a cornerstone of community integration and self-determination for a person with any disability. The relatively simple act of disability disclosure and request for accommodation is a free tool to ensure housing opportunity.

**References:**

Joint Statement of the Department of Housing and Urban Development and the Department of Justice- Reasonable Accommodations under the Fair Housing Act (2004) found at <http://www.hud.gov/offices/fheo/library/huddojstatement.pdf>