

UNITED STATES OF AMERICA
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF ADMINISTRATIVE LAW JUDGES

The Secretary, United States :
Department of Housing and Urban :
Development, on behalf of [REDACTED] : HUDALJ #
[REDACTED], : FHEO No. 03-12-0328-8
: :
Charging Party, :
: :
v. :
: :
City Rescue Mission of New :
Castle and James Henderson, :
: :
Respondents :
_____ :

CHARGE OF DISCRIMINATION

I. JURISDICTION

On July 5, 2012, [REDACTED] (“Complainant”) filed a complaint with the U.S. Department of Housing and Urban Development (“HUD”) alleging that the City Rescue Mission of New Castle (“CRM”) and James Henderson, CRM’s Crossroads Program Manager (collectively, “Respondents”) discriminated against him on the basis of disability in violation of the Fair Housing Act (“Act”), 42 U.S.C. §§ 3601-19.¹

The Act authorizes the Secretary of HUD to issue a Charge of Discrimination on behalf of aggrieved persons following an investigation and a determination that reasonable cause exists to believe that a discriminatory housing practice has occurred. 42 U.S.C. §§ 3610(g)(1) and (2). The Secretary has delegated that authority to the General Counsel (24 C.F.R. §§ 103.400 and 103.405 (2012)), who has redelegated the authority to the Regional Counsel. 76 Fed. Reg. 42463, 42465 (July 18, 2011).

The Fair Housing and Equal Opportunity Director for Region III, on behalf of the Assistant Secretary for Fair Housing and Equal Opportunity, has determined that reasonable cause exists to believe that discriminatory housing practices have occurred in

¹ Complainant filed an amended complaint on September 13, 2012, to include James Henderson as a Respondent. While the complaint also alleged that Kevin Green, CRM’s Executive Director and Chief Executive Officer, violated the Fair Housing Act, HUD has issued a Determination of No Reasonable Cause as to the allegations involving Mr. Green.

this case, and has authorized and directed the issuance of this Charge of Discrimination. 42 U.S.C. § 3610(g)(2).

II. SUMMARY OF THE FINDINGS IN SUPPORT OF THIS CHARGE

Based on HUD's investigation of the allegations contained in the aforementioned complaint and as set forth in the Determination of Reasonable Cause and No Reasonable Cause, Respondents are hereby charged with violating the Act as follows:

A. Statutory and Regulatory Provisions

1. It is unlawful to discriminate against any person in the terms, conditions, or privileges of rental of a dwelling, or in the provision of services or facilities in connection with a dwelling, because of the disability² of that person. 42 U.S.C. § 3604(f)(2); 24 C.F.R. § 100.202(b) (2012).
2. Refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford an individual with a disability an equal opportunity to use and enjoy a dwelling, constitutes unlawful discrimination. 42 U.S.C. § 3604(f)(3)(B); 24 C.F.R. § 100.204 (2012).
3. A person has a disability under the Fair Housing Act if he has a physical or mental impairment which substantially limits one or more major life activities. 42 U.S.C. § 3602(h); 24 C.F.R. §§ 100.20, 100.201 (2012).

B. Parties and Subject Property

1. [REDACTED], who is blind, is a person with a disability, as defined under the Act. 42 U.S.C. § 3602(h). [REDACTED] resides at [REDACTED].
2. Complainant is an aggrieved person, as defined under the Act. 42 U.S.C. § 3602(i).
3. Respondent City Rescue Mission of New Castle operates a homeless shelter and provides shelter and other services to the homeless. City Rescue Mission has its principal place of business at 319 South Croton Avenue, New Castle, Pennsylvania.

² The term "disability" is used herein in place of, and has the same meaning as, the term "handicap" in the Act and its implementing regulations.

4. Respondent James Henderson is CRM's Crossroads Program Manager, with a business address of 319 South Croton Avenue, New Castle, Pennsylvania.

C. Factual Allegations

1. On or about November 2, 2011, Complainant became homeless after his landlord evicted him from his apartment.
2. On or about December 5, 2011, Complainant contacted Respondent CRM's homeless shelter to secure a bed because he was homeless.
3. Complainant explained to the CRM desk person and to Respondent Henderson that he was homeless, blind, had a service animal, and needed shelter.
4. Both the CRM desk person and Respondent Henderson informed Complainant that they could not accept him with his service animal because Respondent CRM was not equipped to handle service animals.
5. Complainant reiterated to Respondent Henderson that his dog was a service animal, specifically a guide dog, and that he could not be without the animal.
6. Respondent Henderson informed Complainant that he could recommend him to other places. Complainant ended the call.
7. Complainant subsequently spoke with Lynn Henry, a caseworker for Lawrence County Community Action, about the fact that he was homeless and the steps he had taken to attempt to obtain housing at CRM.⁴ Ms. Henry then called CRM and spoke with Respondent Henderson, informing him that she was looking for a bed for Complainant and that his service animal would need to be with him due to his disability.
8. Respondent Henderson informed Ms. Henry that CRM was not capable of housing service animals, but he could recommend her to other places. Respondent Henderson also informed Ms. Henry that if Complainant kept the animal elsewhere, Complainant could stay at the shelter, but CRM could not accommodate him with the animal.
9. Respondent CRM's vacancy logs for December 1, 2011, through December 31, 2011, establish that there was at least one vacant bed available each day at the shelter.

10. As a result of CRM's actions in denying Complainant's request for housing that would accommodate him with his service animal, Complainant became increasingly despondent and suffered significant damages as a result thereof.

D. Fair Housing Act Violations

1. As described in paragraphs II.C.1 through II.C.10 above, Respondents CRM and Henderson violated 42 U.S.C. § 3604(f)(2) when Respondent Henderson informed Complainant and Lynn Henry that Complainant could not move into the CRM shelter with his service animal. 42 U.S.C. § 3603(f)(2); 24 C.F.R. § 100.202(b) (2012).
2. As described in paragraphs II.C.1 through II.C.10 above, by failing to comply with 42 U.S.C. § 3604(f)(2), Respondents CRM and Henderson violated 42 U.S.C. § 3604(f)(3)(B) when they refused to make a reasonable accommodation to CRM's no animal policy and allow Complainant to move into the CRM shelter with his service animal. 42 U.S.C. § 3603(f)(2); 24 C.F.R. § 100.202(b) (2012); and 42 U.S.C. § 3604(f)(3)(B); 24 C.F.R. § 100.204 (2012).
3. As a result of Respondents' discriminatory conduct, Complainant suffered actual damages, including emotional distress.

III. CONCLUSION

WHEREFORE, the Secretary of the United States Department of Housing and Urban Development, through the Office of Regional Counsel for the Philadelphia Regional Office, and pursuant to 42 U.S.C. § 3610(g)(2)(A), hereby charges Respondents with engaging in discriminatory housing practices in violation of 42 U.S.C. §§ 3604(f)(2) and 3604(f)(3)(B), and prays that an order be issued that:

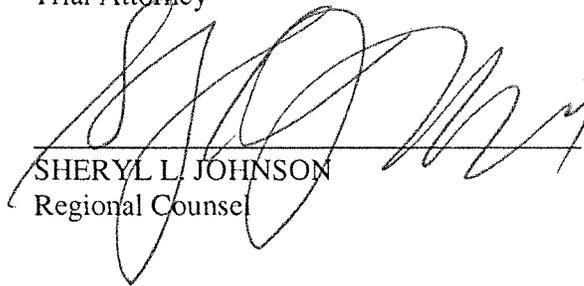
1. Declares that Respondents' discriminatory housing practices, as set forth above, violate 42 U.S.C. §§ 3604(f)(2) and 3604(f)(3)(B);
2. Enjoins Respondents, their agents, employees, successors, and all other persons in active concert or participation with them, from discriminating on the basis of disability against any person in any aspect of the occupancy, sale or rental of a dwelling;
3. Awards such damages as will fully compensate Complainant pursuant to 42 U.S.C. § 3612(g)(3);
4. Assesses a civil penalty against each Respondent for each violation of the Act, pursuant to 42 U.S.C. § 3612(g)(3) and 24 C.F.R. § 180.671 (2012);

5. Awards any additional relief as may be appropriate, pursuant to 42 U.S.C. § 3612(g)(3).

Respectfully submitted on this 15th day of April, 2013.



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