

Rental Housing and Service Animals: ADA and FHAA- when does each apply?

What is a service animal?

Under the Americans with Disabilities Act (ADA), a service animal is defined as a dog that has been individually trained to do work or perform tasks for an individual with a disability. The task(s) performed by the dog must be directly related to the person's disability.

What does "do work or perform tasks" mean?

The dog must be trained to take a specific action when needed to assist the person with a disability. For example, if you have diabetes, you may have a dog that is trained to alert you when your blood sugar reaches high or low levels. If you have depression, you may have a dog that is trained to remind you to take your medication. Or, if you have epilepsy, you may have a dog that is trained to detect the onset of a seizure and then help you remain safe during the seizure.

Are emotional support, therapy, comfort, or companion animals considered service animals under the ADA?

No. These terms are used to describe animals that provide comfort just by being with a person. Because they have not been trained to perform a specific job or task, they do not qualify as service animals under the ADA. However, some state or local governments have laws that allow people to take emotional support animals into public places. Check with your state and local government agencies to find out about these laws.

Can I be denied a rental because I need a service dog or an emotional support animal?

Federal law requires a property manager or landlord to make a reasonable accommodation in the rules. If they do not, they are

discriminating against a person with a disability and are in violation of federal law.

However, the federal Fair Housing Amendments Act (FHAA), does not apply to all landlords.

Get legal advice to see if you qualify under any of these laws and if your landlord needs to follow them.

What does the law say? ADA and FHAA- when does each apply?

Under the Fair Housing Amendments Act (FHAA), a qualified person with a disability may request a reasonable accommodation in the form of a modification of rules against the keeping of pets in order to keep either a service animal or an emotional support animal.

If you have a disability and you have an individually trained service dog, or an emotional support animal prescribed by a licensed mental health professional, the Fair Housing Amendments Act of 1988 requires that your landlord and/or property manager make a reasonable accommodation to their policies to allow you to have the service animal or emotional support animal.

This includes accommodation of species, breed, and weight policies. That means if they have a "cats only" policy, they must accept your service dog. If they have a policy that only allows dogs of 30 lbs. or less and your emotional support animal weighs 75 lbs., they must make a change in the rules to accommodate you.

The FHAA does not apply to all landlords. Examples of where the FHAA does **not** apply are:

- Buildings with four or fewer units where the landlord lives in one of the units,
- Private owners who do not own more than three single family houses, do not use real estate brokers or agents, and do not use discriminatory advertisements.

The FHAA also does not apply to publicly (government) owned housing or to Section 8 housing.

How do I ask for an exception to the landlord's "no pet" rule?

- Make a request to the landlord or manager in writing.
- Ask for a "reasonable accommodation."
- State you have a disability and explain that you need the accommodation to ease your symptoms or to give you a service that you need in order to use and enjoy your home.
- Include a note from your doctor, psychiatrist, social worker, or other mental health professional that says you need the support animal.
- You do not have to give any details about your disability or your medical history.
- You do not have to give proof of your animal's training or certification.

Can the landlord make me pay an additional deposit for my emotional support animal?

No. The landlord cannot require you to pay an additional deposit in order for you to have the animal, even if deposits are required for pets.

You are responsible for your animal and its behavior.

- Clean up after your animal.
- Make sure it does not bother other tenants.
- If your animal causes damage, you may have to pay for cleaning or repairs.
- If your animal causes damage, your landlord may be able to refuse to allow your animal on the property.
- If your animal is a direct threat to anyone or if it is disruptive to other tenants, your landlord may be able to refuse to allow your animal on the property or may evict you.

My landlord refuses to accommodate the fact that I have a service dog. What can I do?

Get legal advice from one of the resources listed below or submit a complaint with the U.S. Department of Housing and Urban Development (HUD). Learn more about the process at [HUD's website](#).

Property owners must make reasonable accommodations so that anyone with a disability may enjoy the equal chance to live comfortably. Title II of the Americans with Disabilities Act (ADA) may also protect some people with disabilities from being evicted because of a service dog.

Not all rental housing is covered by a disability law. Get legal advice to see if you qualify under any of these laws and if your landlord needs to follow them.

For more information about your rights under the Fair Housing act visit the [HUD.gov website](#) today.

Where can I get help?

603 Legal Aid - Call 603-224-3333 or [apply online](#)

[Disability Rights Center](#) - NH - Call **1-800-228-0432**

Learn more about:

- Service and Companion Animals from the [Disability Rights Center](#).
- The Americans with Disabilities Act (ADA) and Service Animals from U.S. Department of Justice, Civil Rights Division, [Disability Rights Section](#), call the ADA Information Line at **800-514-0301 (Voice) and 800-514-0383 (TTY)**.
- [Service Animals in New Hampshire](#) .
- [Emotional Support Animals in “No Pet” housing](#).

Try also reading...

- [To withhold rent or not to withhold rent? That is the question](#)
- [Tenant's rights overview](#)

- [Do you smoke and live in public housing?](#)
- [Fair Housing Laws](#)
- [Saving Your Personal Property Left in Apartment](#)
- [Filing a Petition Under RSA 540-A](#)
- [Discovery in Landlord and Tenant Cases](#)
- [Bed Bugs in New Hampshire & The Law](#)

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Author: DRC/LARC