

Know Your Rights

Housing Tenants and Eviction

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As a renter with a disability, know your rights when facing eviction.

What are some common reasons for eviction?

A person may be evicted for a number of different reasons. If a tenant has lived in a unit for over a year, the landlord must have a reason to evict the tenant. One of the most common reasons for eviction is interfering with other tenants' peaceful enjoyment of the premises. Other common reasons include not paying rent or failing to keep a dwelling unit clean and sanitary. Those are types of "for cause" eviction. Under some circumstances, a landlord can evict someone in order to repair a dwelling unit. The landlord also can sometimes evict a tenant, if they sold the property to another person who intends to live there.

What laws protect the rights of tenants with disabilities if they are being evicted?

The Oregon Residential Landlord and Tenant Act offers protections to any tenant facing eviction. The Fair Housing Act also offers additional protection to tenants with disabilities during an eviction. The Fair Housing Act applies to most kinds of rental housing.

The circumstances that led to my "for cause" eviction are related to symptoms of my disability. Can fair housing laws protect me from eviction?

Under some circumstances, you may request a reasonable accommodation

under the Fair Housing Act to make an exception to the landlord's eviction policy. For example, disability-related symptoms might cause loud noises at night that disrupt your neighbors. You may be able to request a reasonable accommodation or modification to permit you to address those noise concerns and stop an eviction. An accommodation could include time for you to seek therapy or medical treatment to control your noise disturbances. A reasonable modification (or physical change to the unit) might include installing soundproofing.

What is a reasonable accommodation?

A reasonable accommodation is a change to a rule, policy, practice, or service that may be necessary for a person with a disability. It provides the person an equal opportunity to use and enjoy a home.

How do I make a reasonable accommodation request?

To request a reasonable accommodation a tenant or applicant must contact their housing provider. The individual can make the request orally or in writing. The request should explain what the accommodation is and why it is needed. It is better to put it in writing.

You may need to:

- » explain the connection between the requested accommodation and your disability
- » provide a medical verification letter from a social worker, medical provider, or other professional

Reasonable accommodation requests are considered on a case-by-case basis. They are often best worked out through an interactive process between the landlord and the tenant.

When you make a reasonable accommodation request, you may want to request a written response from the landlord within 10-14 days.

I threatened or acted aggressively toward another tenant, but it was caused by symptoms of my disability. Can the landlord evict me?

Your landlord may be able to evict you for dangerous behavior, even if it is caused by your disability. The Fair Housing Act does not protect individuals who pose an ongoing direct threat to the health or safety of others. But a landlord cannot evict a tenant based on fear, speculation, or stereotypes alone. For example, it is illegal to attempt to evict someone based on a mental health or substance abuse diagnosis simply because neighbors or a landlord fear that diagnosis makes the person dangerous. There must be a specific threat based on actual conduct, and an individual assessment of that threat. Sometimes tenants engage in threatening acts because of disability-related symptoms. A tenant may seek treatment or develop a safety plan that reduces the likelihood of that happening again. In that case, you may be able to request a reasonable accommodation to stop an eviction for past behavior.

I significantly damaged my unit, but it was caused by my wheelchair or symptoms of my disability. Can the landlord evict me?

Typically, a landlord may evict a tenant who destroys or significantly damages a rented dwelling unit. They may also evict someone if they allow someone else to damage the dwelling. If damage was caused by your wheelchair or symptoms of your disability, you may be able to request a reasonable accommodation to stop the eviction. You will be responsible for paying to repair any damages, beyond reasonable wear and tear. You may also need to take steps to avoid future damage. For example, in the case of a wheelchair causing damage, you might be able to modify the dwelling to make it more accessible and reduce the likelihood of damage. The landlord is usually required to allow you to make those modifications. The modifications would be at your expense if you live in private housing. However, if you live in an affordable housing property that receives federal financial assistance, the landlord may need to pay for those modifications. Similar to noise disturbances, sometimes damage to a unit is caused by disability-related behavior. You may request a reasonable accommodation to seek treatment to address that behavior, in order to stop an eviction. You would still need to pay

for damage to the dwelling unit.

I'm being evicted because I did not pay rent on the 1st of the month, because I don't receive my Social Security disability benefits check until the 3rd of the month. Can fair housing laws protect me from eviction?

Yes, the Fair Housing Act would protect you from eviction, if you request a reasonable accommodation. You may request an accommodation to a landlord policy for which day of the month the rent is paid. If you are otherwise able to pay your landlord the full amount of rent, then the landlord should grant your request to change the date of payment.

I'm being evicted because I cannot physically deliver the rent payment to the rental office, which is the required method, due to my disability. What can I do?

If you cannot physically deliver rent payment to the rental office due to disability, you should request a reasonable accommodation. The landlord must work with you to identify an alternative method to pay your rent. You may need to obtain documentation explaining why your disability requires you to pay rent in the requested manner if your disability-related reason is not apparent.

I received an eviction notice and plan to move out, but I cannot move out by the specified date. What can I do?

If you have a disability-related reason for being unable to leave by a specified date, you may request a reasonable accommodation to extend the move-out date. One reason may include that you need assistance moving due to your disability, which will not be available within the specified time frame. Another reason may be that you need an accessible dwelling unit but need more time to find one available due to a shortage in supply.

Can a landlord evict me for requesting a reasonable accommodation or modification?

A landlord cannot evict someone for requesting a reasonable accommodation. State and federal law prohibit your landlord from evicting you because you took action to assert your rights under the Fair Housing Act. The landlord cannot take any action that interferes with your rights regarding the rental property, because you exercised those rights. It is considered retaliation and that is one type of unlawful discrimination.

I am being evicted because I have an assistance animal and the landlord says that violates the “no pets” policy. Can the landlord do that?

The landlord cannot evict you under a “no pets” policy if you have requested a reasonable accommodation to have an assistance animal in your dwelling. Assistance animals are not pets and should not be considered as such by your landlord. If your landlord has a “no pets” policy, you may ask for an exception to that policy as a reasonable accommodation for your disability. The types of assistance animals allowed in dwelling units include trained service animals, as well as animals that provide therapeutic or emotional support. If you are moving into a new home or seeking to bring an assistance animal into your current home, you should first make a reasonable accommodation request to permit the animal.

My rental history includes evictions that were caused by symptoms related to my disability, and now no one will rent to me. Is there anything I can do about it?

Yes, you may request that a landlord create an exception to a rental history screening requirement, as an accommodation for your disability. However, you will probably need to provide information to demonstrate that the underlying disability-related issue that caused the eviction has been addressed. You may need to obtain letters of support or medical verification demonstrating the circumstances that led to the eviction are not likely to recur.