

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,)
Plaintiff,)
v.)
WILLIAM SWANSON,)
Defendant.)

Case No. 12-310 Erie

Filed Electronically

COMPLAINT

The United States of America alleges:

INTRODUCTION

1. This action is brought by the United States to enforce the Fair Housing Act, Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C. §§ 3601-3619 ("FHA").

2. The United States brings this action on behalf of Complainant Sharon Dunfree, pursuant to 42 U.S.C. § 3612(o).

JURISDICTION AND VENUE

3. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1345, 42 U.S.C. §§ 3612(o)(1).

4. Venue is appropriate pursuant to 28 U.S.C. § 1391(b) because a substantial part of the events giving rise to this action occurred in this judicial district.

PARTIES

5. Defendant William Swanson owns and operates approximately 18 residential rental units that include residential trailers and a cottage. The properties are located in Erie, Pennsylvania.

6. Sharon Dunfee is a woman with a disability as defined by 42 U.S.C. § 3602(h). Ms. Dunfee's mental disability limits her major life activities.

FACTUAL ALLEGATIONS

7. Ms. Dunfee has a disability-related need for her two emotional assistance cats (at times referred to by the parties as "service cats").

8. On or about September 8, 2009, Ms. Dunfee telephoned Mr. Swanson in response to an advertisement for a trailer for rent. In the telephone conversation, Mr. Swanson informed Ms. Dunfee that he also had a cottage available for rent.

9. On or about September 8, 2009, Ms. Dunfee and Howard Savoy met Mr. Swanson at one of his rental properties.

10. The trailers and cottage owned and rented by Mr. Swanson are dwellings within the meaning of the Fair Housing Act, 42 U.S.C. § 3602(b).

11. Howard Savoy was at that time and is now a caseworker at Lakeshore Community Services, Inc., an organization that serves disabled persons in the community.

12. Ms. Dunfee advised Mr. Swanson that she had two "service cats" that would be living with her.

13. Mr. Swanson informed her that he does not allow pets in the advertised trailer or the cottage.

14. Mr. Swanson showed Ms. Dunfee and Mr. Savoy a trailer unit that he offered to rent if she did not bring the emotional assistance cats, but refused to rent to her with her emotional assistance cats.

15. Mr. Swanson refused to show Ms. Dunfee a cottage rental unit located at 3140 Whitehouse Lane because he would not allow cats there.

16. Mr. Swanson offered that she could rent a different trailer unit with her emotional assistance cats, showed this unit to Ms. Dunfee and Mr. Savoy, but the unit that he offered to Ms. Dunfee was a trailer in very poor condition compared with the first trailer unit he had shown her.

17. Ms. Dunfee repeatedly informed Mr. Swanson that she needed her service cats, and became distraught at Mr. Swanson's negative response.

18. Ms. Dunfee attempted to explain why she needed her cats, but Mr. Swanson refused to listen.

19. Ms. Dunfee told Mr. Swanson that he had to accept her cats.

20. Ms. Dunfee attempted to show Mr. Swanson a letter from her psychiatrist requesting that Ms. Dufee be allowed to keep her cats as a reasonable accommodation, and indicating that the cats are therapeutic, but Mr. Swanson refused to look at the letter.

21. Mr. Swanson knew or should have known that Ms. Dunfee was disabled, or should have made additional inquiry to determine if she was disabled.

22. Mr. Swanson knew or should have known, or should have made additional inquiry to determine that Ms. Dunfee made a request for a reasonable accommodation to his no pets policy.

HUD ADMINISTRATIVE PROCESS

23. Ms. Dunfee timely filed a complaint of discrimination with the United States Department of Housing and Urban Development ("HUD") pursuant to 42 U.S.C. § 3610(a).

24. Pursuant to 42 U.S.C. § 3610(a) and (b), the Secretary of HUD conducted and completed an investigation of the complaint, attempted conciliation without success, and prepared a final investigative report. Based upon the information gathered in the investigation, the Secretary of HUD, pursuant to 42 U.S.C. § 3610(g)(1), determined that reasonable cause existed to believe that illegal discriminatory housing practices had occurred. Therefore, on September 27, 2012, the Secretary of HUD issued a Charge of Discrimination, pursuant to 42 U.S.C. § 3610(g)(2)(A), against Mr. Swanson.

25. On October 9, 2012, Mr. Swanson elected to have the claims asserted in the Charge of Discrimination resolved in a civil action pursuant to 42 U.S.C. § 3612(a).

26. On October 9, 2012, an Administrative Law Judge issued a Notice of Election to Proceed in United States Federal District Court and terminated the administrative proceeding on Ms. Dunfee's complaint.

27. Following this Notice of Election, the Secretary of HUD authorized the Attorney General to commence a civil action, pursuant to 42 U.S.C. § 3612(o).

CLAIM FOR RELIEF

28. Through the actions described above, Mr. Swanson has violated the Fair Housing Act by:

a. discriminating in rental and denying a dwelling because of Ms. Dunfee's disability, 42 U.S.C. § 3604 (f)(1)(A);

b. discriminating against Ms. Dunfee in the terms and conditions of the rental of a dwelling because of Ms. Dunfee's disability, 42 U.S.C. § 3604 (f)(2)(A), and

c. refusing to make reasonable accommodations in his rules, policies, practices, or services, when such accommodations were necessary to afford Ms. Dunfee an equal opportunity to use and enjoy a dwelling, 42 U.S.C. § 3604 (f)(3)(B).

29. As a result of Mr. Swanson's conduct, Ms. Dunfee is an aggrieved person as defined in 42 U.S.C. § 3602(i) and has suffered injuries as a result of Mr. Swanson's actions.

30. Mr. Swanson's discriminatory actions were intentional, willful, and taken in disregard of the rights of Ms. Dunfee.

WHEREFORE, the United States prays that the Court enter an ORDER that:

1. Declares that the actions of Defendant, as alleged herein, violate the Fair Housing Act, 42 U.S.C. §§ 3601-3619;

2. Enjoins Defendant, and all other persons in active concert or participation with him, from:

(a) Discriminating in the rental, or otherwise making unavailable or denying dwellings to renters because of handicap;

(b) Discriminating 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 such dwelling because of handicap;

(c) Failing or refusing to make reasonable accommodations as required by 42 U.S.C. § 3604(f)(3)(B);

(d) Failing or refusing to take such affirmative steps as may be necessary to prevent the recurrence of any discriminatory conduct in the future and to eliminate, to the extent practicable, the effects of the Defendant's discriminatory conduct; and

(e) Failing or refusing to take such affirmative steps as may be necessary to restore, as nearly as practicable, all persons harmed by the Defendant's discriminatory conduct.

3. Awards monetary damages, pursuant to 42 U.S.C. §§ 3612(e)(3), and 3613(c)(1) to Ms. Dunfee; and

The United States further prays for such additional relief as the interests of justice may require.

Dated: December 10, 2012

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