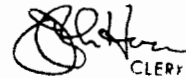


UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

FILED

SEP 18 2015


CLERK

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
ROBERT CHRISTENSEN, LINDA)
CHRISTENSEN, and VIKING)
VILLAS, LLC,)
)
Defendants.)
_____)

CIVIL ACTION NO. 15-4146

COMPLAINT

The United States of America alleges as follows:

NATURE OF ACTION

1. The United States brings this action to enforce Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C. §§ 3601 *et seq.* ("Fair Housing Act" or "FHA"). This action is brought on behalf of Chelsy Walsh pursuant to 42 U.S.C. § 3612(o).

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action under 28 U.S.C. §§ 1331 and 1345, and 42 U.S.C. § 3612(o).
3. Venue is proper in this District under 28 U.S.C. § 1391(b) because the events or omissions giving rise to the United States' claims occurred there, and the property that is the subject of this suit is located there.

PARTIES AND PROPERTY

4. The Subject Property, known as Viking Villas, is located at 3900 S. Marion Road, Sioux Falls, South Dakota. It is a residential apartment complex consisting of three 12-unit buildings.
5. Defendants Robert Christensen and Linda Christensen ("the Christensens") purchased the Subject Property on or about December 2, 2013. On or about March 24, 2014, the Christensens transferred the property to Defendant Viking Villas, LLC. Linda Christensen is the registered agent for Viking Villas, LLC.
6. At all times relevant to the complaint, Defendants Robert Christensen and Linda Christensen were responsible for the operation and management of Viking Villas.
7. The Subject Property is a "dwelling" within the meaning of the Fair Housing Act, 42 U.S.C. § 3602(b).
8. At all relevant times, Chelsy Walsh is and has been a person with a disability as defined by the Fair Housing Act, 42 U.S.C. § 3602(h). She has been diagnosed with post-traumatic stress disorder ("PTSD") and bipolar disorder. These conditions substantially impair her ability to work and perform tasks related to daily living. Ms. Walsh receives Social Security Disability Income and rental assistance through the Section 8 Housing Choice Voucher Program.

FACTUAL ALLEGATIONS

9. Chelsy Walsh moved to Apartment 104 at the Subject Property in December 2005. At that time, the Subject Property did not allow tenants to have pets.
10. The Christensens purchased the Subject Property in December 2013 and continued the no-pet policy.

11. In and before 2013, Ms. Walsh's health care providers advised her to consider obtaining an assistance animal to help her with her disability. In 2013, she decided to attempt to obtain a dog to serve as an assistance animal. Toward this end, on or about December 9, 2013, Ms. Walsh obtained a prescription from her psychiatrist stating: "Due to mental illness and disability, patient requires use of companion animal for emotional and psychiatric stability. Please accommodate this request."
12. On or about January 7, 2014, Ms. Walsh contacted Ms. Christensen via telephone to ask for permission to keep a dog as an assistance animal. Ms. Walsh told Ms. Christensen that she had a prescription for a companion animal from her doctor and that she wanted to get a dog. Ms. Christensen made clear that "there are absolutely no animals" allowed and that the Christensens would not make an exception for her. She reminded Ms. Walsh that she was "on housing assistance" and that it would be hard to find an apartment that would accept such assistance. Ms. Christensen also told Ms. Walsh, "If you feel you still need that prescription filled, you'll need to give 60-day notice because there are absolutely no animals allowed," or words to that effect.
13. Ms. Walsh did not provide a copy of the prescription to the Christensens in January 2014. She believed, based on Ms. Christensen's remarks during the call, that any continued attempts to request an exception to the no-pet policy would be futile.
14. The Christensens had previously managed other rental properties since approximately 1973, and they were aware that an exception to a no-pet policy is sometimes required as a reasonable accommodation for a person with a disability.
15. On January 24, 2014, Ms. Walsh filed a housing discrimination complaint with the U.S. Department of Housing and Urban Development ("HUD") alleging that the Christensens

discriminated against her on the basis of disability by refusing to grant her request for a reasonable accommodation to the no-pet policy to allow her to have an assistance animal.

HUD initiated an investigation into the complaint pursuant to 42 U.S.C. § 3610(a).

16. On February 19, 2014, the Christensens provided to HUD a written answer to Ms.

Walsh's complaint. In that answer, the Christensens stated that they were aware of the FHA requirements to provide reasonable accommodations to tenants with disabilities.

17. On May 5, 2014, HUD provided a copy of Ms. Walsh's prescription to the Christensens' attorney.

18. On May 12, 2014, the Christensens and their attorney met with Paul Flogstad, the Sioux Falls Fair Housing Ombudsman, and representatives of the City of Sioux Falls. At the meeting, the Christensens explained, referring to Ms. Walsh, that they had failed to allow a companion animal at a tenant's request.

19. On June 17, 2014, Ms. Walsh sent a letter to the Christensens via certified mail stating:

"This is Chelsy Walsh from Apt. 104. I am requesting reasonable accommodations for my disability. I have attached a prescription from my doctor for a dog. Please respond in writing or via email as my email address is listed above. Thank you for your time and concern." The letter attached Ms. Walsh's prescription dated December 9, 2013.

20. On or about June 17, 2014, Ms. Walsh brought a seven-year-old, 10.5-pound shih-tzu/lhasa apso mix named Libby to live with her at the Subject Property.

21. On or about June 23, 2014, Mr. Christensen hand-delivered a letter and a document titled "Companion Animal/Pet Policy Agreement" to Ms. Walsh and asked her to sign the policy. Ms. Walsh did not sign the policy.

22. The Christensens made negative comments to Ms. Walsh or in her presense about Libby.

For example, on one occasion, Ms. Christensen told Ms. Walsh he was doing her a favor by allowing her to keep a dog. On another occasion, he told another tenant that he was allowing Ms. Christensen to have a dog because she had sued him.

23. On August 27, 2014, Ms. Walsh hand-delivered a letter to Mr. Christensen stating that she was giving 30 days' notice of vacating her apartment. Ms. Walsh moved out of the Subject property by September 30, 2014.

24. After Ms. Christensen denied Ms. Walsh's request to get an assistance animal in January 2014, Ms. Walsh experienced emotional distress.

25. Since obtaining her assistance animal in June 2014, Ms. Walsh has noted a marked improvement in her symptoms of depression and anxiety. Her assistance animal helps her complete her daily activities, helps her leave her apartment and interact with others, and gives her a sense of security.

HUD ADMINISTRATIVE PROCESS

26. On or around January 24, 2014, Ms. Walsh filed a timely Fair Housing Complaint against Robert Christensen and Linda Christensen with the United States Department of Housing and Urban Development ("HUD"). The complaint was amended on or around July 18, 2014, and on or around February 18, 2015, to, among other things, add Viking Villas, LLC as a respondent.

27. Pursuant to 42 U.S.C. § 3610, 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, pursuant to 42 U.S.C. § 3610(g)(1), determined that reasonable cause existed

to believe that Defendants violated the Fair Housing Act. Therefore, on June 29, 2015, the Secretary issued a Charge of Discrimination, pursuant to 42 U.S.C. § 3610(g)(2)(A), charging the above-named Defendants with engaging in discriminatory housing practices on the basis of disability.

28. On July 20, 2015, Defendants elected to have the claims asserted in the HUD Charge resolved in a civil action pursuant to 42 U.S.C. § 3612(a). On July 21, 2015, the Administrative Law Judge issued a Notice of Election to Proceed in United States Federal District Court and terminated the administrative proceeding on Ms. Walsh's complaint.
29. 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).

COUNT I

30. Plaintiff re-alleges and incorporates by reference the allegations set forth above.
31. By the actions set forth above, Defendants have:
- a. Discriminated in the terms, conditions or privileges of the rental of a dwelling, or in the provision of services or facilities in connection therewith, on the basis of disability, in violation of 42 U.S.C. § 3604(f)(2); and
 - b. Refused to make reasonable accommodations in rules, policies, practices or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling, in violation of 42 U.S.C. § 3604(f)(3)(B).
32. As a result of Defendants' conduct, Ms. Walsh has been injured and is an "aggrieved person" as defined by 42 U.S.C. § 3602(i).

33. The discriminatory actions of the Defendants were intentional, willful, and taken in reckless disregard of the rights of Ms. Walsh.

PRAYER FOR RELIEF

WHEREFORE, the United States of America prays for relief as follows:

1. A declaration that the discriminatory conduct of Defendants as set forth above violates the Fair Housing Act;
2. An injunction against Defendants, their agents, employees, successors, and all other persons in active concert or participation with any of them from:
 - a. Discriminating on the basis of disability, in violation of the Fair Housing Act;
 - b. Failing or refusing to take such affirmative steps as may be necessary to restore, as nearly as practicable, Ms. Walsh to the position she would have been in but for the discriminatory conduct; and
 - c. Failing or refusing to take such affirmative steps as may be necessary to prevent the recurrence of any discriminatory conduct in the future.
3. An award of monetary damages to Ms. Walsh pursuant to 42 U.S.C. §§ 3612(o)(3) and 3613(c)(1).

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


Dated: September 18, 2015

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