

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No.
	)	
TRACY STAPULA and MARC MORIN,	)	
	)	
Defendants.	)	
	)	

COMPLAINT OF THE UNITED STATES

The UNITED STATES OF AMERICA, by its attorneys, alleges as follows:

NATURE OF ACTION

1. This is an action brought by the United States 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”).
2. The United States brings this action for injunctive relief and monetary damages on behalf of K.B. pursuant to the Fair Housing Act, 42 U.S.C. § 3612(o).
3. The United States alleges that Defendants Tracy Stapula and Marc Morin (“Defendants”) violated 42 U.S.C. § 3604(f)(2) and (f)(3)(B) by discriminating in the terms and conditions of tenancy because of a tenant’s disability by refusing to make reasonable accommodations in rules, policies, practices or services when such accommodations may be necessary to afford that person equal opportunity to enjoy a dwelling. The United States also alleges that Defendants violated 42 U.S.C. § 3617 by threatening and filing to evict K.B. because she exercised her fair housing rights.

JURISDICTION AND VENUE

4. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1345 and 42 U.S.C. § 3612(o).

5. Venue is proper in this District pursuant to 28 U.S.C. § 1391 because the events giving rise to the United States' claims occurred in this judicial district, and because Defendants and the subject property are located in this judicial district.

PARTIES

6. Plaintiff is the United States of America.

7. Defendants Marc Morin and Tracy Stapula reside in Windham, New Hampshire.

8. At all times relevant to the conduct forming the basis of this Complaint, Defendant Stapula was the owner of a residential rental property in Manchester, New Hampshire, the "subject property." The subject property includes three rental units and is a "dwelling" within the meaning of 42 U.S.C. § 3602(b).

9. At all times relevant to the conduct forming the basis of this Complaint, Defendants Stapula and Morin were the property managers for the subject property. Their duties included entering into leases, collecting rent, enforcing lease rules and requirements, evicting tenants, and making decisions regarding reasonable accommodation requests at the subject property.

FACTS

10. Since on or around 2014, complainant K.B. ("Complainant") has resided at one of the units of the subject property.

11. Complainant is a person with a disability¹ within the meaning of 42 U.S.C. § 3602(h). She suffers from, and at all relevant times suffered from *inter alia* major depressive disorder and panic disorder, which have substantially limited several of her major life activities, including working, caring for herself, connecting with others, and leaving the house. She has received medical treatment for her conditions, including regular therapy and two hospitalizations.

12. In early 2021, Complainant and Complainant's brother discussed getting Complainant a dog to help her with her disabilities. Complainant's brother then got Complainant a puppy as an assistance animal.

13. On February 27, 2021, Complainant discussed the puppy, a Yorkshire terrier mix, with her therapist, Thomas Hagner, LICSW. In his notes, Mr. Hagner wrote that Complainant "believes this dog will serve as an emotional support animal for her."

14. On March 5, 2021, Mr. Hagner wrote a letter on behalf of Complainant which stated that K.B.'s dog should "be classified as an Emotional Support Animal, [Complainant has] found his presence of significant assistance to [her] mental health." The letter also stated that "Given the severity of the symptoms evidenced by the above diagnoses, [K.B.] qualif[ies] as having an emotional disability that an Emotional Support Animal could assist [her] with." The letter also stated that K.B. had been diagnosed with "Major Depressive Disorder and Generalized Anxiety Disorder with Panic Attacks."

15. On that same day, March 5, 2021, Complainant informed Defendant Stapula about her dog via text. Defendant Stapula replied that no dogs were allowed under the lease agreement.

¹ The Fair Housing Act uses the terms "handicap" or "handicapped" which are considered antiquated terms. This Complaint uses the terms "disability" or "disabled" instead. Those terms have the same meaning as the terms "handicap" or "handicapped," as defined in the Fair Housing Act.

16. The rental agreement between K.B. and Defendants contained “Agreed house rules,” requiring tenants to “agree to abide by” these rules in buildings containing more than one unit. Rule number seven provided that: “NO DOGS OR ANY OTHER PETS are to be kept on the demised premises unless specifically approved by the owner in writing.” The rental agreement contains no mention of the Fair Housing Act or any provisions for requesting a reasonable accommodation to waive the no pets rule.

17. Between March 11, 2021, and April 5, 2021, on multiple occasions, Complainant attempted to deliver to Defendants copies of the March 5, 2021 letter from Mr. Hagner and her request for a reasonable accommodation to keep her dog as an emotional support animal despite the no pets rule. Complainant’s attempts to reach Defendants were apparently unsuccessful.

18. On April 15, 2021, Defendant Stapula texted Complainant that she had received complaints about a dog barking in the subject property and asked Complainant whether she still had a dog.

19. On April 17, 2021, Complainant replied via text that she still had her “ESA,” referring to an Emotional Support Animal, but needed Defendants’ address to mail them documentation and a request for reasonable accommodation.

20. On April 19, 2021, Defendant Stapula provided her correct mailing address but told Complainant that “[r]egardless of any letter there are no dogs allowed.”

21. On or about April 20, 2021, Complainant sent a letter to Defendants explaining that her dog was an “Emotional Support Animal” and that he has helped her deal with her “emotional disability.” Complainant’s letter was dated March 11, 2021, and included a copy of the March 5, 2021 letter from her therapist, Mr. Hagner.

22. Defendants received these letters sent by Complainant with a postmark date of April 20, 2021.

23. On April 21, 2021, Defendants sent Complainant an Eviction Notice for three lease violations, including failure to comply with “House Rules #7 – No dogs or any other pets.”

24. On May 3, 2021, Defendants sent Complainant a text message asking if she was “staying and fixing the violations” or if she was moving.

25. On May 12, 2021, Defendants sent Complainant a text message asking if she had “figured out what to do with the dog.”

26. On May 13, 2021, Defendants sent Complainant a text message stating that “[o]n the 22nd we have to go file with the court unless you comply.”

27. On June 1, 2021, Defendants filed a Landlord and Tenant Writ to evict Complainant with New Hampshire’s 15th Circuit District Court.

28. On June 4, 2021, Complainant filed a fair housing complaint with the United States Department of Housing and Urban Development (“HUD”), alleging that Defendants discriminated against her due to her disability.

29. Defendants received a copy of Complainant’s fair housing complaint on June 16, 2021.

30. On July 15, 2021, Defendants’ first eviction case was dismissed due to Defendants’ failure to appear at a scheduled hearing.

31. On August 24, 2021, Defendants sent Complainant a second Eviction Notice, this time citing “good cause” as the basis but providing no further explanation. The Notice did not include any of the alleged lease violations previously listed in the April 21, 2021 Eviction Notice.

32. On October 8, 2021, the 10th Circuit District Court dismissed Defendants' second eviction action because Defendants did not specify what the "good cause" reason for eviction was.

33. On or about October 19, 2021, Defendants sent Complainant a third Eviction Notice. On that notice, Defendants indicated the reason for the eviction to be "renovations + fair market value." This notice was not filed with the court.

34. On January 25, 2022, Defendants sold the subject property.

35. Since that time, Complainant has continued to reside at the subject property as a tenant with her emotional support animal.

36. Defendants' denial of Complainant's request for a reasonable accommodation did not involve an individualized assessment, and they failed to engage in an interactive process with Complainant when considering her reasonable accommodation request.

37. As a result of Defendants' actions, Complainant has suffered actual damages, including but not limited to emotional distress.

HUD ADMINISTRATIVE PROCESS

38. On June 4, 2021, K.B. timely filed a complaint with HUD.

39. 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.

40. Based on the information gathered in the investigation, the Secretary, pursuant to 42 U.S.C. § 3610(g)(1), determined that reasonable cause exists to believe that illegal discriminatory housing practices occurred. On June 6, 2024, the Secretary issued a Determination of Reasonable Cause and a Charge of Discrimination, pursuant to 42 U.S.C. § 3610(g)(2)(A), charging Defendants with engaging in unlawful discrimination under the Fair Housing Act.

41. On June 26, 2024, Defendant Morin elected to have the claims asserted in HUD's Charge of Discrimination resolved in a federal civil action pursuant to 42 U.S.C. § 3612(a).

42. Accordingly, on June 27, 2024, a HUD Administrative Law Judge issued a Notice of Election to Proceed in the United States Federal District Court and terminated administrative proceedings.

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

44. On July 11, 2024, the United States and Defendants entered into an agreement tolling the expiration of the statute of limitations under 42 U.S.C. § 3612(o) through September 24, 2024. On September 18, 2024, the United States and Defendants entered into a second agreement tolling the expiration of the statute of limitations to October 24, 2024. On October 22, 2024, the United States and Defendants entered into a third agreement tolling the expiration of the statute of limitations to November 7, 2024. On November 6, 2024, the United States and Defendants entered into a fourth agreement tolling the expiration of the statute of limitations to November 21, 2024. On November 21, 2024, the United States and Defendants entered into a fifth agreement tolling the expiration of the statute of limitations to December 5, 2024.

**FAIR HOUSING ACT VIOLATIONS PURSUANT TO
42 U.S.C. § 3604(f)(2), (f)(3)(B), and 42 U.S.C. § 3617**

45. The United States repeats and realleges the preceding paragraphs.

46. By the actions referred to in the preceding paragraphs, Defendants have:

- a. Discriminated in the terms, conditions or privileges of the rental of a dwelling on the basis of disability, in violation of 42 U.S.C. § 3604(f)(2);
- b. Refused to make reasonable accommodations in rules, policies, practices or services, when such accommodations may be necessary to afford a person

with a disability an equal opportunity to use and enjoy a dwelling, in violation of 42 U.S.C. § 3604(f)(3)(B); and

- c. Intimidated and threatened the Complainant on account of her exercise of her rights under 42 U.S.C. § 3604, in violation of 42 U.S.C. § 3617.

47. The Complainant is an “aggrieved person” as defined in 42 U.S.C. § 3602(i) and has suffered injuries as a result of Defendants’ actions.

48. Defendants’ discriminatory actions were intentional, willful, and taken in disregard of the rights of the Complainant.

PRAYER FOR RELIEF

WHEREFORE, the United States requests that this Court:

1. Determine and declare that the discriminatory housing practices of Defendants Tracy Stapula and Marc Morin as set forth above violated the Fair Housing Act;
2. Enjoin and restrain Defendants, their officers, employees, agents, successors, and all other persons or corporations in active concert or participation with Defendants, from:
 - a. Discriminating against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of disability, in violation of 42 U.S.C. § 3604(f)(2);
 - b. Refusing to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling, in violation of 42 U.S.C. § 3604(f)(3)(B);

- c. Coercing, intimidating, threatening, or interfering with any person in the exercise or enjoyment of, or on account having exercised or enjoyed, or on account of having aided or encouraged another person in the exercise or enjoyment of, their fair housing rights, in violation of 42 U.S.C. § 3617;

3. Order Defendants to take such actions 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 their unlawful conduct, including implementing policies and procedures to ensure that no applicants or residents are discriminated against because of disability;

4. Award monetary damages to Complainant pursuant to 42 U.S.C. §§ 3612(o)(3) and 3613(c)(1); and

5. Order such additional relief as the interests of justice require.

A Jury Trial is Requested.

Dated: December 4, 2024

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Respectfully submitted,

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