

Critter Classifications: Clearing Up Critter Confusion

QUESTION

Dear Fair Housing Expert,

I'm new and confused. I have a resident who's requested a pet policy accommodation due to her disability but her dog exceeds our 20-pound limit. We've gone through the verification process and granted it, however, she calls it both a pet and an emotional support animal. She looks and acts fine to me. How can I confirm if she truly needs an ADA accommodation?

-Critter Confusion in Chicago

RESPONSE

Dear CC,

You're not alone in your confusion. Let's see if we can clear things up.

First, there are pets and there are working animals. Some working animals serve human industry and do not need to be accommodated under the Fair Housing Act (FHA)¹, which could include K-9 dogs, rats for detecting landmines in war zones, or elephants that are used in timber operations.

Conversely, other types of working animals that aid people with disabilities, must be considered for reasonable accommodation. Such conditions might include the following:

- blind and hearing impaired
- seizure, depression, high blood pressure, anxiety and post-traumatic stress disorders
- mobility and balance conditions

Service Animals vs. Assistance Animals

Among disability aid animals, there are two important categories: service animals and assistance animals, both of which are legally not pets.

Service Animals

Service animals are **trained to do specific tasks**. Sometimes they're highly trained and can cost tens of thousands of dollars while others are trained by their owner. But, there is no certification that distinguishes them. Surprisingly, since 2010, the Americans with Disabilities Act (ADA) has defined service animals as dogs and miniature horses, which is a fascinating topic in and of itself!

¹ You can learn more about accommodating animals at <http://www.fairhousingnc.org/2013/hud-issues-new-guidance-on-assistance-animals-and-reasonable-accommodations-for-people-with-disabilities> and http://portal.hud.gov/hudportal/documents/huddoc?id=servanimals_ntcfheo2013-01.pdf. Read the federal FHA at https://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/FHLaws

The ADA allows service animals² to **accompany their person where pets are not commonly allowed** – offices, stores, restaurants. Businesses can ask if they're service animals and what tasks they're trained to do, but can't demand a demonstration or probe into individuals' medical conditions.

Assistance Animals

Assistance animals under the FHA are different and much broader. Some are called emotional support animals, support animals, and even companion animals. Unlike service animals under the ADA, there is no training requirement for assistance animals under the FHA.

Differentiating Pets from Disability-Aid Animals

Some call service and assistance animals pets by mistake including those in the veterinary industry that use the terms interchangeably. When it comes to housing though, it doesn't really matter what the animal is called, most animals that aid a person with a disability aren't legally pets.

I'll be the first to admit that some take advantage of the accommodation process, and it's difficult to tell if it's an ordinary pet or not. Nothing specifically differentiates them – there's no definitive registry, specialty vests are easily acquired, and the various laws in question don't require certification. By the same token, you can't necessarily tell by looking at a person, if he/she has a disability either. Remember that all disabilities – visible and invisible – that fit the FHA's definition are equal under the law.

You did well in recognizing your resident's stated need and going through the accommodation process with her. With verification that she has a disability and that she needs her animal's assistance, I wouldn't worry about what she calls it. In fact, if they're being good residents and complying with reasonable rules, don't give the matter another thought. Good luck, CC, and welcome to the industry!

Jo Becker, A Realtor®-turned-fair housing advocate, was licensed for eight years before joining a statewide fair housing nonprofit where she trained over 10,000 individuals in 10 years to consistently rave reviews. She focused on making the law accessible to housing providers and, today, concentrates on assistance animals and other critter-related topics.

Jo has also studied emergency preparedness and disaster response with a focus on animals since 2005. She is an Oregon-based speaker and writer who takes an entertaining, personable approach to educating audiences and readers.

Regardless of topic or industry, Jo's aim is to inform, empower, and inspire with historical and relatable context, understandable concepts, and bottom line considerations. Visit Jo's web site <http://www.JoBecker.weebly.com/>

² Read about service animals and the ADA at https://www.ada.gov/service_animals_2010.htm