

Dealing with Pets in Rental Properties

by Debbi Conrad

While many property managers and landlords are reluctant to allow pets in their rental units, others have found that careful screening and thoughtfully planned pet policies can create a mutually respectful relationship. The owner or property manager may protect him or herself against many pet concerns with careful planning and documentation.

- Ask for a written pet “résumé” and references vouching for the pet’s good behavior and the responsible attitude of the pet’s owner.
- Put tenants with pets on month-to-month rental agreements so that the tenancy may be quickly ended if there are problems. This agreement may be documented on the AOA RENTAL AGREEMENT AND/OR LEASE which was designed for use either as a lease or a month-to-month tenancy.
- Have written pet rules that, for instance, set limits on the type and size of animal; require that pets be neutered or spayed and that cats be de-clawed; require that all pets be leashed when outdoors and relieve themselves only in designated areas; require the tenant to immediately pick up any pet waste; and prohibit any excessive pet noise or disturbances. Ask to see documentation, when appropriate, and enforce the rules that are established.
- Require an additional pet deposit (extra security deposit for pet damage) or extra monthly rent for each animal residing in the rental unit. If you charge both, carefully and clearly indicate the purpose of the extra charges in the rental agreement and pet policies. Some tenants may contend that if monthly pet rent is intended to cover pet damage, then any repair costs for damage caused by the pet should not also be deducted from the pet deposit because double charging is illegal.
- Most owners may charge pet owners higher security deposits keeping in mind that the maximum amount of the security deposit one can charge cannot exceed local ordinance or state limits.

Do the same policies apply if a tenant has a disability and has a service animal?

No, the rules change dramatically when it comes to service and support animals. Service animals that assist persons with disabilities are considered to be auxiliary aids and generally are exempt from many of the owner’s pet restrictions, pet deposits and extra pet rent. Service animals include guide dogs for persons with vision impairments, hearing dogs for people with hearing impairments, and emotional assistance animals for persons with chronic mental illness.

Keep in mind that there are specific rules about animals assisting persons with vision, hearing or mobility disabilities. It is illegal for an owner or property manager to refuse to rent to a tenant, evict the tenant, require extra compensation or harass a tenant because he or she keeps an animal that is specially trained to lead or assist a tenant with impaired vision, hearing or mobility, provided that:

- Upon request, the tenant shows to the owner or property manager credentials or tags issued by an accredited organization or agency to train animals for vision, hearing or mobility assistance.

- The individual will be liable for any damage caused by the animal and agrees to maintain sanitary practices with respect to the animal's toilet needs.

However, the owner is not required to accommodate the service animal in owner-occupied rental housing if the owner, or a member of his or her immediate family occupying the housing, has been certified to be allergic to the type of animal the prospective tenant possesses.

While seeing eye and hearing dogs are generally recognized and accepted by the public, the idea of emotional support animals is often met with some resistance. However, recent research has demonstrated that emotional support animals can be extremely effective at ameliorating the symptoms of emotional disabilities, such as depression and post-traumatic stress disorder.

The federal Fair Housing Act and the Americans with Disabilities Act (ADA) protect the right of people with disabilities to keep emotional support animals, even when a landlord's policy explicitly prohibits pets. The law generally requires the owner or property manager to make an exception to his no pet policy as a reasonable accommodation. As long as the requested accommodation does not constitute an undue financial or administrative burden for the landlord, or fundamentally alter the nature of the housing, the landlord must provide an accommodation.

If a prospective tenant needs an emotional support animal, he or she should request a reasonable accommodation, in writing, from the landlord or manager. The request should state that the tenant has a disability and demonstrate a relationship between his or her ability to function and the companionship of the animal. In addition, the tenant should include a letter or prescription from an appropriate professional, such as a therapist or physician, verifying the need for the support animal. The tenant need not disclose the details of the disability nor provide a detailed medical history.

If a dog scratches the door or a cat ruins the carpet, what remedies does an owner have? **Tenant Damages.** The tenant is responsible for repairing any damage to the rental property caused by the negligence or improper use of the premises by the tenant – or the tenant's pet. However, the landlord may choose to repair the property him or herself and have the tenant reimburse him for the reasonable cost of the repair work – this is what generally happens. The cost to the landlord is presumed reasonable unless proven otherwise by the tenant. The owner may only charge for damages that go beyond normal wear and tear.

Tenant Waste. If the cat is allowed to use the carpet as a litter box and the bedroom carpet and sub-flooring are ruined, this will likely constitute waste. Tenant "waste" is a tenant's unreasonable conduct that results in physical damage and a substantial decrease in the value of the owner's property. Waste may result from a tenant's intentional, voluntary activity or from the tenant's negligence or failure to act.

Security Deposit Withholding. Owners may withhold from security deposits (including the pet deposit) for tenant damage, waste or neglect of the premises, provided the damage is in excess of normal wear and tear. Only actual repair costs (materials, work the owner pays others to perform) may be offset against the tenant's pet deposit and/or security deposit. If any portion of the security deposit is withheld, a detailed statement of the

amounts withheld from the security deposit must be delivered or mailed to the tenant within 21 days of the tenant's surrender of the premises.
If the security deposit does not cover the amount of the damages, the owner may sue the tenant for the balance in small claims court.

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