



# Landlord Letter

April 2025

## ***Fair Housing Month ESA Letters from the Internet***

April is Fair Housing Month, so we wanted to focus on different aspects of fair housing. That's easy because there are so many fair housing issues that landlords should be aware of. For our featured article, let's talk about how to handle ESA letters you may receive from the internet.

Tenants are entitled to request an ESA if (1) the tenant is disabled, and (2) the animal assists the tenant to overcome a disability-related need. If the disability and disability-related need are not obvious or otherwise known, you may request "reliable documentation" to establish these two elements. However, as you've probably seen, not all ESA letters are equal.

For example, a doctor's letter may say "My patient has anxiety and depression." While anxiety and depression MIGHT be sufficient to establish a disability, not all anxiety and depression consti-

tutes a disability. Without going into any details or other diagnosis, the letter needs to just state (1) whether the tenant has a disability as defined in the fair housing act (yes or no), and (2) whether an animal would assist them with their disability (yes or no).

Another issue we see regularly is when a tenant gets a letter from a website claiming they need an ESA. Just Google "ESA prescription letter" and you'll see what I mean. There are a lot of websites out there that, for a small fee, will issue a letter stating the tenant is entitled to an ESA. It's troubling, because they're saying that after one brief contact with the tenant, they are diagnosing the tenant with a disability and prescribing an animal to help with that disability.

*(Continued on page 2)*

## **What people are saying about US!!!**

**"Love this team! They are the go-to attorney's office for me. They truly go above and beyond. 100% recommend."**

*~Erin .—Google Review*



(Continued from page 1)

In 2020, HUD issued a guidance opinion that specifically addressed “Documentation from the Internet”. If you [Click Here](#) or do a Google search on “[ESA HUD FHEO-2020-01](#)” you can find the full guidance opinion (page 11 talks about letters from the internet, and we’ve included it below under “Documentation from the Internet”). In commenting on letters that come from the internet, HUD stated “In HUD’s experience, such documentation from the internet is not, by itself, sufficient to reliably establish that an individual has a non-observable disability or disability-related need for an assistance animal.”

What does this mean? It means that if you suspect that a tenant’s only verification related to an ESA request came from the internet, you may point that out and have a discussion with the tenant about their request. Please do not state “We aren’t accepting your letter because it came from the in-

ternet and your ESA is denied!” What you could say is “It appears that the letter you provided came from the internet, and HUD has stated these letters, on their own, are not sufficient to reliably establish the requirements for an ESA. Do you have anything else you would like us to consider as we process your request?”

Even if you do not believe what they have provided is insufficient, HUD requires you to enter into an “interactive process” or “interactive dialogue” to try to come to a solution. It’s important to discuss your concerns and allow the tenant an opportunity to explain or supplement their request. As additional information comes in, you’re better suited to evaluate the request and make a determination. As always, you should seek legal counsel about your specific situation to determine the best way to go. With fair housing cases, instead of trying to WIN a lawsuit, it’s best to focus on AVOIDING a lawsuit.

Attorney Jeremy Shorts

### Documentation from the Internet

Some websites sell certificates, registrations, and licensing documents for assistance animals to anyone who answers certain questions or participates in a short interview and pays a fee. Under the Fair Housing Act, a housing provider may request reliable documentation when an individual requesting a reasonable accommodation has a disability and disability-related need for an accommodation that are not obvious or otherwise known.<sup>35</sup> In HUD’s experience, such documentation from the internet is not, by itself, sufficient to reliably establish that an individual has a non-observable disability or disability-related need for an assistance animal.

By contrast, many legitimate, licensed health care professionals deliver services remotely, including over the internet. One reliable form of documentation is a note from a person’s health care professional that confirms a person’s disability and/or need for an animal when the provider has personal knowledge of the individual.



## Dear Attorney,

**Q:** *My tenant has an approved pet and is paying monthly pet rent, but they just gave me paperwork for an ESA and want all of the past pet rent refunded. What do I do?*



**A:** First, you'll need to go through the verification process to confirm that the animal is an ESA.

Even if it started as a pet and they've been paying pet rent, fair housing laws permit the tenant to make a reasonable accommodation to classify the animal as an ESA (by showing the tenant is disabled and has a disability-related need for an animal).

Assuming the animal qualifies as an ESA, let's then break this up into two issues: (1) what happens to the pet rent paid in the past? And (2) what happens to pet rent going forward?

**Past Pet Rent** – The pet rent in the past was paid and received while the animal was a pet. Even if it is classified as an ESA going forward, that would not require the return

or refund of pet rent paid in the past while the animal was NOT an ESA.

**Future Pet Rent** – Once the animal is approved as an ESA, the pet rent required under the lease would go away completely. A landlord cannot charge pet rent or other fees to a tenant because they have an ESA.



## Quick Tips to Ask When Hiring an Attorney

Ask these questions BEFORE you tell an attorney about your case.

- ✓ What is your specialty? (You want to hire an expert in that field!)
- ✓ How many cases like mine have you handled in the last month?
- ✓ What professional groups or associations are you involved in?

If you don't feel comfortable hiring them, then move on and call someone else!

## Courtroom Chronicles

The Fair Housing Act (FHA) plays an important role to protect tenants from unfair and discriminatory practices. However, the FHA is meant to be a SHIELD to protect tenants, not a SWORD to attack landlords.

We recently had a case where a tenant filed a fair housing complaint and was very aggressive in their claim. Fair housing cases start in mediation, which is usually a good way to go because they can sometimes be settled early in the process. However, in this case, even though the tenant had a weak claim, they refused to settle for anything less than \$120,000!!! Despite the unreasonableness of the demand, we still attempted in good faith to settle. When it became obvious that the tenant wouldn't budge, we moved forward with defending the case.

We found several texts between the landlord and tenant that really helped to show there was ZERO discrimination. When the fair housing investigator asked the tenant about these damaging texts, the tenant claimed that the landlord had hacked into the cell phone and had a conversation with himself! Unless you're a big conspiracy theorist or a big fan of 007 movies, that's just not going to work.

After conducting interviews and reviewing emails/texts, the investigator completely dismissed the case in its entirety! Did you know only 9% of fair housing cases in Utah end with a finding of discrimination against the landlord? This is a good example of why so few cases result in rulings that discrimination occurred.



## Utah Rental Housing Trade Show

### Parting Thoughts

- We're working to build our readership, tell your friends to subscribe to this FREE newsletter. Send us an email [info@utahevictionlaw.com](mailto:info@utahevictionlaw.com).
- Have an eviction question? Email it to us for a future newsletter!
- Help us build our online presence! You can "Like" our Facebook page ([www.facebook.com/utahevictionlaw](http://www.facebook.com/utahevictionlaw)).
- You can also give us a Five Star Google Review (search "Utah Eviction Law Reviews" and click on our link).

**Tuesday,**

**April 15th, 2025**

**8:00 AM - 5:00 PM**

**Mountain America  
Expo Center**

**9575 State Street  
Sandy, UT 84070**

