



MIKE PENCE, *Governor*
JAMAL L. SMITH, *Executive Director*

ICRC No.: HOha15040304
HUD No.: [REDACTED]

JAMAL L. SMITH, in his official capacity as
EXECUTIVE DIRECTOR of the
INDIANA CIVIL RIGHTS COMMISSION,
Complainant,

v.

[REDACTED],
Respondent.

NOTICE OF FINDING and
ISSUANCE OF CHARGE

The Executive Director of the Indiana Civil Rights Commission (“Commission,”) pursuant to statutory authority and procedural regulations, hereby issues the following findings with respect to the above-referenced case. Reasonable cause exists to believe that an unlawful discriminatory practice occurred as alleged. A Charge is therefore issued in accordance with 910 IAC 2-6-6(b).

On April 27, 2015, [REDACTED] filed a Complaint with the Commission against [REDACTED] (“Respondent”) alleging discrimination on the basis of disability in violation of the Indiana Fair Housing Act (Ind. Code § 22-9.5, *et seq.*) the Indiana Civil Rights Law (Ind. Code § 22-9, *et seq.*) [REDACTED]

[REDACTED] The Commission, therefore, has jurisdiction over the parties and the subject matter of this Complaint. An investigation has been completed. All parties have been interviewed and have had an opportunity to submit evidence. Based on the final investigative report and a full review of the relevant files and records, the Executive Director now finds the following:

The issue before the Commission is whether Respondent denied Complainant’s request for a reasonable accommodation. In order to prevail, Complainant must show that: 1) she is member of a protected class; 2) Respondent was aware or should have been aware of Complainant’s disability; 3) she requested a reasonable accommodation necessary to allow her an equal opportunity to remain in the premises; and 4) Respondent unreasonably denied or delayed Complainant’s request for a reasonable accommodation. It is evident that Complainant is a member of a protected class by virtue of her disability. While Respondent asserts that it was unaware of Complainant’s disability, evidence shows that he should have known of such; moreover, evidence shows that Complainant requested a reasonable accommodation and that Respondent denied her request.

By way of background, Complainant signed a lease agreement with Respondent on or about October 1, 2014. At all times relevant to the Complaint, the lease prohibited pets and explicitly provided that “no pets shall be on the premises.” While Respondent denies that Complainant requested a reasonable accommodation to have an emotional support animal on the premises or that he was aware of a doctor’s statement in support of the request, evidence discovered during the course of the investigation



contradicts this assertion. Specifically, both Complainant and her witness assert that Complainant showed Respondent a medical statement from 2014 providing that “a companion animal, such as a cat or small dog, would in my opinion provide additional therapeutic benefits.” During the course of her tenancy with Respondent, Complainant obtained a cat for emotional support; however, upon discovering the cat, Respondent tendered Complainant an eviction notice stating that “you have a pet. There is to be no pet on the premises. You must vacate my house by 4-30-2015.” Ultimately, Complainant vacated the premises.

Despite Respondent’s assertions, there is insufficient evidence to support his claims. Rather, witness testimony supports Complainant’s claim that she requested a reasonable accommodation to have an emotional support animal and tendered Respondent a doctor’s statement supporting the request. Moreover, no evidence has been submitted by Respondent or uncovered during the course of the investigation to show that Respondent entered into the interactive dialogue process with Complainant in an attempt to preserve her tenancy. Further, no evidence has been provided by Respondent or uncovered during the investigation to show that permitting Complainant to have an emotional support animal was unreasonable or would create an undue administrative and financial burden upon the Respondent. Simply stated, Respondent’s failure to engage in the interactive dialogue process with Complainant as well as his failure to grant Complainant’s request for a reasonable accommodation is fatal to their claim. As such and based upon the aforementioned, reasonable cause exists to believe that a discriminatory practice occurred as alleged.

A public hearing is necessary to determine whether a violation of the Indiana Fair Housing Act, the Indiana Civil Rights Law occurred in the aforementioned case. As permitted by 910 IAC 2-6-6(h), Respondent, Complainant, or any aggrieved person on whose behalf the Complaint is filed may elect to have the claims asserted in a civil action under Ind. Code § 22-9.5-6-12 in lieu of an administrative proceeding under 910 IAC 2-7. In the event the parties seek to pursue such an election, it must be made no later than twenty (20) days after the receipt of service of this Notice of Finding and Charge. The notice of any such election must be filed with the Commission and served on the Director, the Respondent, and Complainant in accordance with 910 IAC 2-6-6. If such an election is not timely made, the administrative proceedings initiated by the Charge will continue as scheduled. 910 IAC 2-6-6. Moreover, Respondent shall have an opportunity to file an answer to this charge within thirty (30) days of service of this Charge. [REDACTED] and any other person aggrieved by this alleged discriminatory practice may participate as a party in the hearing by filing a request for intervention. All discovery in this matter must be completed fifteen (15) days prior to the date of hearing. If, at any time following service of this charge Respondent intends to enter into a contract, sale, encumbrance, or lease with any person regarding the property that is the subject of this charge, Respondent must provide a copy of this charge to the person prior to entering into such contract, sale, encumbrance or lease. 910 IAC 2-7-4(e)(3).

December 15, 2015

Date

Jamal L. Smith
Executive Director
Indiana Civil Rights Commission