

CEDAR RAPIDS CIVIL RIGHTS COMMISSION

Tanaka Pearson,)	
)	CRCRC NO. 3423
Complainant,)	
)	
vs.)	REVISED
)	FINAL ORDER
Seldin Properties, LLC,)	ENTERED PURSUANT
d/b/a Valley View Apartments,)	TO COMPROMISE
)	SETTLEMENT
Respondent.)	

I. STATEMENT OF THE CASE

1. The Complainant, Tanaka Pearson, (hereinafter known as “Pearson”), filed a charge against Seldin Properties, LLC (hereinafter known as “Seldin”), alleging discrimination in the area of housing on the basis of disability in violation of Chapter 69, Section 19 of the Code of Ordinances of the City of Cedar Rapids, Iowa.
2. A hearing was held in Cedar Rapids, Iowa, before Administrative Law Judge Robin L. O’Brien Licht (the “ALJ”) on April 10, 2015.
3. The ALJ issued a Proposed Decision on October 20, 2015. The Cedar Rapids Civil Rights Commission (the “Commission”) reviewed that Proposed Decision on November 18, 2015 and much of that decision is adopted herein.

II. FINDINGS OF FACT

1. Complainant Pearson has been diagnosed with arthritis in her knees over five years ago. Due to the diagnosis, Complainant is in need of a total knee replacement.
2. Due to the Complainant’s arthritis in her knees, she has pain when she walks, sits, and sleeps.
3. As a result of the Complainant’s arthritis, she must walk with a cane at times. The arthritis in Complainant’s knees is aggravated by stairs which causes inflammation and swelling.

4. Complainant's arthritis has affected her ability to work because she cannot stand for long periods of time. Complainant was deemed incapacitated because of her knees by Dr. Fabian in January of 2014.
5. Valley View is managed by Respondent Seldin Properties and owned by C & H – Cedar Rapids, L.P., and is located at 505 Ashton Place NE in Cedar Rapids, Iowa.
6. In May of 2013, Complainant met with the Manager of Valley View at the time, Traelei Annett-Jaeger, to complete a rental application. Complainant had previously notified the manager that she needed a first floor apartment due to the arthritis in her knees and the difficulty in using stairs. Complainant also asked Ms. Annett-Jaeger for a ride to the bus station due to her difficulty walking with the arthritis in her knees. When Complainant returned to sign the lease, she was informed she was given a unit on the third floor, rather than the agreed upon first floor. Ms. Annett-Jaeger and Samantha Appleby, Assistant Manager, were present during the meeting and were aware that Complainant was upset about the third floor unit.
7. Complainant moved into the unit about two weeks later because she believed she did not have a choice. Complainant made several requests to move to a first floor apartment.
8. Ms. Shelton and Ms. Annett-Jaeger saw Complainant using a cane while living at the unit.
9. Respondent was aware Complainant had someone living with her during the tenancy to assist her in getting up and down the stairs since her unit was on the third floor of the complex.
10. Complainant's request to move to a first floor apartment was not granted despite the fact that three first floor units became available during the time Complainant resided in the third floor unit.
11. According to Ms. Appleby, Respondent has a policy of requiring documentation from a doctor if a unit transfer request is made on the basis of a disability if that disability is not visible. However, if the disability is visible, Respondent's policy is to proceed with the transfer request. If documentation is required for a unit transfer request, it is up to the Manager to decide what constitutes sufficient documentation. Ms. Appleby on behalf of the Respondent was unsure if Complainant was ever given a unit transfer request form. Complainant testified she was never given a unit transfer request form. Ms. Appleby also testified she did not explain the process of transferring units to Complainant.

III. ISSUES

1. Whether Complainant is a disabled person and, if so, was she a victim of unlawful discrimination in housing based upon her disability.
2. Whether Ms. Pearson sustained damages and, if so, the amount thereof.

IV. ANALYSIS & CONCLUSIONS OF LAW

1. In order to prove a housing discrimination case based on failure to provide a reasonable accommodation(s) for a disability, the Complainant must prove the following by a preponderance of the evidence:
 - (a) That Tanaka Pearson was a disabled person within the meaning of Cedar Rapids Municipal Code Section 69.19 (“CRCRC Section 69.19”).
 - (b) That Tanaka Pearson requested an accommodation(s) that was necessary to afford her an equal opportunity to use and enjoy her dwelling.
 - (c) That Respondent knew or reasonably should have known of Tanaka Pearson’s disability.
 - (d) That Tanaka Pearson was denied or refused of that accommodation(s).
2. The ALJ found based upon the testimony given that Tanaka Pearson is a disabled person under CRCRC Section 69.19. The ALJ further found based upon the testimony given and exhibits that Ms. Pearson’s disability substantially limits her major life activities including but not limited to walking, standing, working and, at least during 2013, the ability to care for herself.
3. The ALJ found Respondent knew or should have known that Ms. Pearson had a disability at all times relevant to this matter both verbally and visually.
4. The ALJ found that on several occasions prior to moving in and after moving in that Ms. Pearson requested a first floor unit to be able use and enjoy her dwelling and not be housebound with a person living with her to assist her with the stairs.
5. The ALJ found Respondent failed to accommodate Ms. Pearson’s disability on at least three occasions when a first floor unit became available while

Ms. Pearson lived at the unit and also when Respondent failed to explain the unit transfer request process at any time.

6. The ALJ found that Complainant has proven by a preponderance of the evidence that the Respondent discriminated against Ms. Pearson.
7. The Cedar Rapids Civil Rights Commission (the "Commission") hereby adopts the ALJ's findings contained in paragraphs 2 through 6 of this Analysis & Conclusions of Law.
8. The Commission further finds that, due to Respondent's conduct, Ms. Pearson sustained damages in the amount of \$15,186.00, broken down as follows: \$5,658.00 in humiliation, embarrassment and emotional distress, \$7,028.00 in physical pain and suffering, \$2,000.00 in moving costs, and \$500.00 for inconvenience.

V. ORDER FOR RELIEF

Based on the foregoing findings of fact and conclusions of law of the ALJ and the Commission, the following relief is hereby ordered:

1. The Respondent shall immediately cease and desist from discriminatory or unfair practices in providing accommodations to all individuals regardless of disability.
2. The Respondent shall place fair housing posters in common use areas of Valley View Apartments and any other property managed by Seldin Company within the City of Cedar Rapids, so that all residents and guests will be aware of their fair housing rights and responsibilities within 60 days of this Revised Final Order.
3. Within 60 days of this Revised Final Order, all of Respondent Seldin Company's employees involved in the leasing process at Valley View Apartments or otherwise managing Valley View Apartments shall successfully complete fair housing training provided by the Cedar Rapids Civil Rights Commission, or equivalent fair housing training. Such training shall be paid for by Respondent and shall include a special focus on reasonable accommodations.
4. The Respondent is ordered to pay the following costs associated with this action within 30 days of the date of this Revised Final Order, if said amounts have not already been paid pursuant to the original Final Order in this matter: \$959.00 for the court reporter and transcript for the public hearing held in this matter, \$1,935.00 for the cost of the ALJ in this matter and \$100.00 for copying expense of the Commission and its staff.

5. The Respondent is enjoined and restrained from any future violations of Cedar Rapids Municipal Code Chapter 69.
6. The Respondents shall pay monetary damages in the total amount of \$15,186.00 to Ms. Pearson within 60 days of this Revised Final Order, if said amount has not already been paid by Respondent to Ms. Pearson pursuant to the original Final Order in this matter. Said amount has been calculated as follows: \$5,658.00 for humiliation, embarrassment and emotional distress; \$7,028.00 for physical pain and suffering; and \$2,500.00 for inconvenience.
7. Within 60 days of this Revised Final Order, Respondent Seldin Company's employees involved in the leasing process at Valley View Apartments or otherwise managing Valley View Apartments shall review all fair housing laws to assure conformity therewith as follows:
 - a. Cedar Rapids Ordinance § 69.19 (2014)
<http://www.ordlink.com/codes/cedarrapids/>
 - b. Iowa Code § 216.8, .8A (2015). <http://www.legis.state.ia.us/IACODE/>
 - c. Fair Housing Act as Amended 42 USC 3601-19, 31
 - d. Title VI of the Civil Rights Act of 1964
 - e. Section 504 of the Rehabilitation Act of 1973
 - f. Section 109 of Title I of the Housing and Community Development Act of 1974
 - g. Title II of the Americans with Disabilities Act of 1990
 - h. Architectural Barriers Act of 1968

Moreover, the Respondent shall review their Reasonable Accommodation policy and procedure(s) to assure conformity with all fair housing laws. The Respondent's revised policy must include the following provisions.

- i. Tenant has a right to file a complaint with the Cedar Rapids Civil Rights Commission within 360 days of the last incident of alleged housing discrimination.
- ii. It is illegal for the landlord to retaliate against a tenant for participation in protected activity such as filing a complaint
- iii. Management is required to post signage and provide documentation to current and prospective tenants outlining reasonable accommodation policy and process.

A copy of the revised policy and/or procedure(s), along with proof that such policies and procedures have been provided to current and prospective tenants, must be submitted to the Cedar Rapids Civil Rights Commission within 60 days of this Revised Final Order.

Said proof shall be in the form of a signed and notarized sworn affidavit from the Property Manager of Valley View that such policy and/or procedures have been distributed as required herein.

Information regarding all federal fair housing laws listed above may be found at the following address: <http://www.hud.gov/offices/fheo/FHLaws/index.cfm>

This Revised Final Order is being entered as a compromise settlement of a disputed claim. This Revised Final Order replaces and supersedes the Commissioner's original Final Order that was entered in this matter on November 18, 2015, at such time as Seldin Company dismisses, with prejudice, at its cost, the Petition for Judicial Review it filed in Linn County case number CVCV084428. Until the aforementioned dismissal is filed by Seldin Company, this Revised Final Order is of no effect.

DATED THIS 18 DAY OF May, 2016.


Salma Ingram Chair
Cedar Rapids Civil Rights Commission

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