SO WHAT'S WRONG WITH CHARGING MOTORIZED SCOOTER FEES AND/OR DEPOSITS?

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Mr. Earlson lived in the Fairweather Retirement Apartments with his domestic partner, Ms. Bonnaby. He is in his '70s and she is in her '80s. Both Mr. Earlson and Ms. Bonnaby use motorized scooters because of their physical disabilities. (Note: names have been changed)

Every month, Mr. Earlson made their rental payment to Fairweather Retirement Apartments. There were no problems until February 2005, when the apartment's corporate owners notified Mr. Earlson of a new policy – a $15 monthly fee for each tenant who used a motorized scooter. Mr. Earlson objected to the new scooter fee policy, but what could he do? So every month, he wrote out one check for his rent and separate checks for the $15 scooter fees, and on those fee checks, he wrote: "paid under protest." During most of September 2005, Ms. Bonnaby hardly used her scooter because she was in the hospital. This seemed to add insult to injury, but again, what else was to be done about a policy Mr. Earlson believed was wrong and knew of no way to change?

Mr. Earlson eventually discovered that there was something else he could do besides writing "paid under protest" on his scooter fee checks. In August 2005, Mr. Earlson filed a complaint with the Washington State Human Rights Commission (and co-filed with the U.S. Department of Housing and Urban Development – HUD) against the Fairweather Retirement Apartments and its corporate owners (collectively known as "the Respondents"). His complaint alleged that the motorized scooter fee created discriminatory terms and conditions in his housing based on his disability.

The Human Rights Commission's investigation revealed that the scooter fee policy was not motivated by legitimate business necessity, as Respondents did not take into consideration actual wear and tear in determining whether to charge the fee. Instead, it was a blanket policy imposed on all disabled tenants who used motorized scooters, based on the discriminatory anticipation that they would cause excessive carpet damage. It turned out that 23 disabled tenants (several at Fairweather Apartments and many more at the corporate owner's several other properties) had been charged monthly scooter fees. In addition, Respondent had charged some of those disabled tenants a non-refundable motorized scooter or cart deposit of anywhere from $250 to $500 per scooter. At least one household with two disabled tenants, each of whom used a motorized scooter, and the Respondents charged them a total of $1,120 in non-refundable deposits and monthly fees in order to use their motorized scooters. In all, the Respondents had charged their disabled tenants nearly $4,200 in discriminatory fees and deposits.

So what happened? All Mr. Earlson wanted for the resolution of his complaint was for the Respondents to refund the motorized scooter fees he'd been forced to pay, a sum that totaled $90.00, and for Respondents to rescind the discriminatory motorized scooter fee policy.

The civil rights agency recognized, however, that the discriminatory policy had caused widespread financial harm not only to Mr. Earlson and his neighbors, but also to many other tenants with disabilities at the Respondents' other properties. Besides charging over $4,200 in inappropriate fees and deposits, the policy likely created a discriminatory environment in which disabled tenants believed they had no choice but to pay the $15 fee and possibly a hefty deposit if they needed to use a motorized scooter. Indeed, Mr. Earlson paid the fee under protest for six months prior to filing his civil rights complaint. It was also possible that potential tenants with disabilities who could not afford the discriminatory deposit and monthly fees had effectively been denied housing.

The settlement negotiated by the investigator between the parties in this case included terms that benefited not only Mr. Earlson, but also the disabled tenants at Fairweather Retirement Apartments and those at all of the corporate owners' other properties. Settlement included several public policy terms that affected tenants at all of the properties owned by the corporation. Terms of the settlement agreement included

1. Immediate elimination of the Respondents' policies and practices of charging scooter fees and deposits (and an agreement not to implement any similar policy or practice in the future for any devices used by tenants with disabilities)
2. Development of a reasonable accommodation policy subject to Commission approval
3. Development of a service animal policy subject to Commission approval
4. Letters from the corporate owner to all current residents of all of its properties detailing how it operates in compliance with fair housing laws and informing tenants of its reasonable accommodation and service animal policies, and offering copies of the policies on request
5. Fair housing training for the Respondents' CEO, president, and all current Regional Directors, and also for any new Regional Directors or Chief Operating Officer hired within the next two years
6. Posting fair housing posters in all of the corporate owners' properties and also including a copy of this poster in the monthly newsletters of each of its properties for a period of 90 days
7. A letter of apology to Mr. Earlson
8. Refunds of the nearly $4,200 in monthly scooter fees and scooter deposits, including Mr. Earlson's $90.

The Respondents were extremely fortunate in this situation – this discriminatory policy could easily have cost the Respondents many tens of thousands of dollars in damages and attorney fees if terms of agreement had not been reached prior to the Human Rights Commission making a finding.

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