

**UNITED STATES OF AMERICA
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF ADMINISTRATIVE LAW JUDGES**

The Secretary, United States Department)	
of Housing and Urban Development, on)	
behalf of William B. Price, a.k.a. William B.)	
Freeman Price,)	
)	
Charging Party,)	
)	FHEO No. 10-05-0149-8
v.)	
)	
John E. Price and Shirley L. Price,)	
)	
Respondents.)	
_____)	

CHARGE OF DISCRIMINATION

I. JURISDICTION

On April 13, 2005, Complainant, William B. “Freeman” Price, an aggrieved person, filed a timely verified complaint with the United States Department of Housing and Urban Development (“HUD”) and the Washington State Human Rights Commission (WSHRC). The complaint was initially investigated by WSHRC, but was reactivated by HUD on November 30, 2005. The complaint alleged, inter alia, that Respondents, John E. Price and Shirley L. Price, discriminated against Complainant on the basis of handicap by refusing to make reasonable accommodations and attempting to terminate his tenancy in retaliation for asserting his rights in violation of the Fair Housing Act (“Act”), as amended, 42 U.S.C. §§ 3601-3619.

The Act authorizes issuance of a charge of discrimination on behalf of the aggrieved person following an investigation and a determination that reasonable cause exists to believe that a discriminatory housing practice has occurred. 42 U.S.C. § 3610 (g)(1)-(2). The Secretary has delegated to the General Counsel (54 Fed. Reg. 13121), who has redelegated to the Regional Counsel (67 Fed. Reg. 44234), the authority to issue such a charge, following a determination of reasonable cause by the Assistant Secretary for Fair Housing and Equal Opportunity or his or her designee.

The Regional Director for Fair Housing and Equal Opportunity, Region X, has determined that reasonable cause exists to believe that discriminatory housing practices have occurred and authorized the issuance of this Charge of Discrimination.

II. SUMMARY OF THE ALLEGATIONS IN SUPPORT OF THIS CHARGE

Based on HUD's investigation of the complaint and the attached determination of reasonable cause, Respondents are hereby charged with violations of the Act, specifically, 42 U.S.C. Sections 3604(f)(1), 3604(f)(2), 3604(f)(3)(B) and 3617, as set forth below.

1. It is unlawful to discriminate in the rental of, or to otherwise make unavailable or deny, a dwelling to any renter because of a handicap of that renter. 42 U.S.C. § 3604 (f)(1).
2. It is unlawful to discriminate against any person in the terms, conditions, or privileges of rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a handicap of that person. 42 U.S.C. § 3604(f)(2).
3. It is unlawful discrimination to refuse to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford a handicapped person equal opportunity to use and enjoy a dwelling. 42 U.S.C. § 3604(f)(3)(B).
4. It is unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by Sections 803, 804, 805 or 806 of the Act, as codified at 42 U.S.C. Sections 3603-3606. 42 U.S.C. § 3617.
5. The term "handicap" is defined in the Act as a physical or mental impairment which substantially limits one or more of a person's major life activities, a record of having such an impairment or being regarded as having such an impairment.¹ 42 U.S.C. § 3602(h).
6. The subject property is a 24-unit apartment complex located at 2120 46th Avenue, Longview, Washington. At all times relevant herein, there were 50 off-street, unassigned parking spaces for the 24 dwelling units and no designated handicap parking spaces.
7. Complainant, William B. Price, who uses the name "William B. Freeman Price," is a person with a handicap within the meaning of the Act. Complainant has multiple disabling medical conditions, including diabetic neuropathy which makes him susceptible to falls and substantially limits his ability to rise from a seated position and walk without falling. Complainant, who was 78 years old at all times relevant herein, has used a cane

¹ "Disability" is used interchangeably with "handicap" herein.

for assistance with balance intermittently since 2001 and, as his neuropathy worsened, consistently since early 2004.

8. At all times relevant herein, Respondents, John E. Price and Shirley L. Price, were the owners and managers of the subject property. Respondents sold the property on or about January 31, 2005.
9. Complainant has resided at the subject property since 1985, except for a few months in 1992 when he moved to another property because he needed a ground floor apartment. Complainant moved into a ground floor unit at the subject property, Unit 13, in January, 1993.
10. Three times in April and early May, 2004, Complainant was unable to access his vehicle in the parking lot of the subject property because another vehicle was parked in the adjacent space and he could not open his door fully. Due to his disability, Complainant has difficulty entering and exiting his vehicle and cannot do so without fully opening his door.
11. On or about May 6, 2004, Complainant called Respondent John Price and told him that he had been unable to access his car in the parking lot due to inadequate space to open his car door. Complainant explained that, because of his disability, he needs to fully open his door to get into and out of his car. Complainant told Respondent John Price that he needs to either park in two spaces or have a handicap accessible parking space. Complainant offered to show Respondent a parking plan he devised that would give Complainant a wider space without reducing the number of spaces available, but Respondent was not interested.
12. Respondent John Price told Complainant that he did not consider him to be disabled because he did not have a disabled parking placard. Subsequently, Complainant applied for Disabled Person's Parking Privileges. On May 23, 2004, Complainant's physician, Dr. David Young, signed the application, certifying that Complainant is permanently disabled by a medical condition that severely limits his mobility. On or about May 24, 2004, the Washington State Department of Licensing issued a disabled person's parking permit to Complainant; two days later he received his disabled person's license plates.
13. On or about May 24, 2004, Complainant began parking his car straddling the line between two spaces.
14. In the morning of May 24, 2004, Respondent John Price pounded on Complainant's apartment door, yelling that he could not occupy two spaces. Respondent demanded that Complainant move his car and told him that if he continued to occupy two spaces he would be evicted.

15. Later on May 24, 2004, Complainant wrote a letter to Respondents formally requesting as a reasonable accommodation of his disabilities that Respondents reserve the two spaces closest to his unit for his use until a handicap accessible parking space could be created at the same location. Complainant stated that Respondents know he is disabled and has limited mobility, explaining that he uses oxygen, has cognitive and neurological difficulty, diabetes, diabetic neuropathy and arthritis and uses a cane for support. The letter referred to the reasonable accommodation provisions of the Fair Housing Act and the Americans with Disabilities Act (ADA).
16. On or about May 26, 2004, Complainant wrote to Respondents stating that he observed Respondent John Price taking a photograph of his car the previous day as it was parked straddling two spaces in the parking lot with its temporary disabled parking plates displayed in the car windows. Complainant also stated that Respondents were aware of his disabilities because they witnessed him using a cane and observed his oxygen deliveries.
17. On June 1, 2004, Respondents issued revised rules for all tenants for the first time in Complainant's 19-year tenancy. One of the two new rules stated, "If you have one car you have one parking space. If you have two cars you have two parking spaces." The rules provided that failure to comply will result in eviction. Prior to adoption of these new rules, Respondents had no rules regarding the number of parking spaces a tenant may occupy.
18. In a letter dated June 1, 2004, Respondents denied Complainant's reasonable accommodation request for disabled parking. Respondents enclosed a copy of the revised rules. With respect to the rules Respondents wrote, "In the NEW REVISED RULES which you will receive with this letter, you will note that we allow one parking space if you have one vehicle. If you have two vehicles you are allowed two spaces. Left over spaces are for visitors or guests."
19. After Respondents denied Complainant's reasonable accommodation request, Complainant sought the assistance of a veterans' group, which referred him to the Lower Columbia Organization on Disability (LCOD). On June 3, 2004, a LCOD representative wrote to Respondent John Price asking him to reconsider the denial of Complainant's requests. Respondents never replied to this letter.
20. By letter dated June 8, 2004, Complainant renewed his request for a reasonable accommodation, citing the Fair Housing Act. Complainant enclosed a letter of the same date from his doctor, David A. Young, M.D., stating that Complainant is disabled by diabetic neuropathy and asking that he be assisted in regards to this issue.
21. On June 9, 2004, after receiving Complainant's June 8 letter and doctor's note, Respondents issued a Notice Terminating Tenancy to Complainant, under which he was to surrender the premises by June 30, 2004.

22. On July 2, 2004, Respondents filed a state court eviction action against Complainant. A trial was held on September 3, 2004. Complainant represented himself in the proceedings. The judge expressly ruled that Complainant's claim of disability discrimination was a counterclaim which was not before the Court. The judge found that the eviction was retaliatory for "asserting rights under the ADA" and, therefore, was unlawful under state landlord-tenant law. The judge denied Respondents' Motion for Writ of Restitution.
23. At the eviction hearing, Respondent John Price testified that the factors that led to Complainant's eviction were his parking and the letters Complainant sent him. Respondent Shirley Price testified that Complainant never did anything that would cause them to consider an eviction until he wouldn't listen when they asked him not to park in two spaces.
24. Complainant testified that the 96-inch-wide parking spaces at the subject property were too narrow and he needed an additional 40 inches to be able to fully open his car door to enter and exit his vehicle.
25. On September 3, 2004, after the hearing, Respondents showed Complainant a 103-inch-wide parking space and told him he could park there. Complainant replied that the space did not meet his needs, as it would not allow him to open his door fully. Respondents then offered the same space to Complainant in writing. Complainant replied on September 7, 2004, requesting a 156-inch wide space, which is the same width as a standard handicap accessible parking space of 96 inches with an adjacent 60-inch access aisle. By letter dated September 10, 2004, Respondents reiterated their offer of a 103-inch-wide space. Respondents never offered Complainant a space that met his needs.
26. Respondents made no effort to open a dialogue or otherwise engage in an interactive process with Complainant to determine how his disability might be accommodated.
27. Respondents committed unlawful discrimination by pursuing an eviction action against Complainant because of his disability, in violation of 42 U.S.C. § 3604 (f)(1).
28. Respondents subjected Complainant to unlawful discrimination in the terms, conditions, or privileges of rental at the subject property because of his disability, by changing the parking rules at subject property in order to prevent Complainant from using two spaces and, thereby, limit Complainant's access to his vehicle, in violation of 42 U.S.C. § 3604(f)(2).
29. Respondents committed unlawful discrimination by refusing to make a reasonable accommodation to their parking policy to allow Complainant to park in a manner that enabled him to open his door fully as necessitated by his disability, thereby denying

Complainant an equal opportunity to use and enjoy his dwelling in violation of 42 U.S.C. § 3604(f)(2) and (f)(3)(B).

30. Respondents unlawfully coerced, intimidated, threatened or interfered with Complainant in the exercise or enjoyment of, or on account of his having exercised or enjoyed, his rights granted under Section 804 of the Fair Housing Act, by retaliating against Complainant by commencing and pursuing an eviction action against him and amending the rules to prohibit him from parking in two spaces because he asserted his rights under the Act, in violation of 42 U.S.C. § 3617.
31. As a result of Respondents' discriminatory conduct, Complainant has suffered damages, including economic loss, inconvenience, and physical and emotional distress. Complainant expended significant time and effort and experienced considerable emotional stress dealing with Respondents' rejection of his reasonable accommodation requests and fighting the eviction action. This emotional stress adversely affected Complainant's mental and physical health.

III. PRAYER FOR RELIEF

WHEREFORE, the Secretary of the United States Department of Housing and Urban Development, through the Regional Counsel for Region X, hereby charges Respondents with engaging in discriminatory housing practices in violation of 42 U.S.C. § 3604 and § 3617, and prays that an order be issued pursuant to 42 U.S.C. § 3612(g)(3) that:

1. Declares that the discriminatory housing practices of Respondents, as set forth above, violate the Fair Housing Act, 42 U.S.C. §§ 3601-3619;
2. Enjoins Respondents, their agents, employees, successors, and all other persons in active concert or participation with them from discriminating on the basis of handicap in any aspect of the rental of a dwelling;
3. Awards such damages as will fully compensate Complainant, William B. "Freeman" Price, for his damages caused by Respondents' discriminatory conduct;
4. Awards a civil penalty against Respondents for each violation of the Act committed; and,
5. Awards such additional relief as may be appropriate under 42 U.S.C. § 3612(g)(3).

Respectfully submitted,

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