

UNITED SPINAL^{NOW}

Accommodation With An Edge

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Usually, those who discriminate against people with disabilities do so unknowingly and inadvertently. This is an unfortunate American tradition (thankfully waning) of ignoring people with disabilities and, of course, their needs and rights.

Rarely is malice against people with disabilities the motivating force behind discrimination. More often, it is rooted in ignorance, not animus. Lately, however, in discussing disability discrimination with victims, an element of mean-spiritedness, as opposed to just ignorance, underlies the discriminatory practice as well as the eventual accommodation.

Disability discrimination is often cloaked in “official behavior” and organizational policy, but when exposed it is eventually remedied.

Recently, however, the parents of a teenager, who fractured his neck and was released from rehabilitation, signed a lease with a landlord who employed a management company to run his properties. In good faith, the parents committed to rent for a period of time, believing that their child would be able to navigate successfully in the apartment, as well as safely in the bathroom.

After a bad fall, and many near-falls, as well as unsuccessful attempts by the landlord to make changes to accommodate their son’s needs, the parents determined that the only safe thing to do was to move. The Fair Housing Act (FHA) permits tenants to break leases in cases such as this. All parties behaved in good faith. It was just too dangerous for the quadriplegic teenager to remain in the premises.

The FHA also prohibits imposing penalties on tenants for exercising their Fair Housing Act rights. United Spinal Association provided the family with FHA literature that explained that they could break the lease without penalty. The landlord reluctantly released them from the lease, and they moved to an accessible location. Happy ending? Not so fast.

The parents were sued some months later by the management company. The management company wanted a “lease termination fee” of several thousand dollars. The family filed a discrimination complaint alleging it was a fine imposed for exercising FHA rights and therefore a discriminatory practice.

What’s the management company’s point? It can’t be, “We can’t let these quadriplegic tenants take advantage of us,” or even, “We can’t let people with disabilities take advantage of us,” because instances of people with disabilities in a position to take advantage of anyone are so rare. It’s mean behavior that is a response to grievance - an expression of frustration with a world in which they think everyone is taking advantage of them.

A quadriplegic, elderly university professor was teaching remotely because of COVID-19 last year and during the first semester of 2021. His students gave him rave reviews. After he became a quadriplegic in a car accident a few years ago, the university made accommodations and welcomed him back. Local media covered his accident and recovery, and the university was proud of its accommodation efforts.

During Fall 2021, he was told he would have to teach in-person in January, as the university was trying to get everyone back in the classroom. Despite officially requesting reasonable accommodation, he was ignored, and his classes were scheduled “in-person.” He was permitted to teach remotely only after pushing, with United Spinal’s help. A few weeks later, everyone was remote because of Omicron.

Why would the university deny a respected colleague a reasonable accommodation? His coworkers and the Dean know he’s not faking quadriplegia, and that because of his age and condition, he is far more vulnerable than the college students he teaches and most of his coworkers. Where does that pushback come from?

Again, I think it’s mean-spirited, but rooted in the frustration of living in a time of grievance - the growing perception that people not as worthy as you are receiving special treatment. To the aggrieved, it seems everybody’s entitled, except them.

The rest of us know that not to provide reasonable accommodation is, in fact, to behave unreasonably. The desire to behave reasonably that exists in the hearts of all human beings is the reason we have been able to educate those who’ve ignored the needs and rights of people with disabilities. That is why those who continue to behave unreasonably in the face of disability discrimination are so hard to understand.