



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

ICRC No.: HOha15050393
[REDACTED]

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

v.

MAR-MAIN APARTMENTS,
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 in this instance. A Charge is therefore issued in accordance with 910 IAC 2-6-6(b).

On May 29, 2015, Jamal Smith in his official capacity as Executive Director of the Indiana Civil Rights Commission (“Complainant”) filed a Complaint with the Commission against Mar-Main Apartments (“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.*) and Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601, *et seq.*) Accordingly, the Commission has jurisdiction over the parties and the subject matter of this Complaint. An investigation has been completed. Both parties had an opportunity to submit evidence. Based on the final investigative report and a review of the relevant files and records, the Executive Director now finds the following:

The issue before the Commission is whether Respondent represented a refusal to make a reasonable accommodation. In order to prevail on such a claim, Complainant must show that 1) he represented himself to have a disability as defined under the law; 2) Respondent knew that the Complainant represented himself to have a disability as defined under the law; 3) he requested a reasonable accommodation; and 4) Respondent unreasonably denied the request for a reasonable accommodation. It is evident that Complainant represented himself to have a disability as defined under the law; moreover, Respondent admits that the Complainant represented that he had a “companion dog.” However, Respondent admits that it informed Complainant that it was a “cat only” building, thereby denying the request for a reasonable accommodation.

By way of background and at all times relevant to the Complaint, Respondent’s property manager [REDACTED] admits that Respondent does not permit dogs on their property and is a “cat-only” building. Evidence shows that on or about August 20, 2014, Complainant contacted Respondent, informed Respondent that he had a companion dog, and inquired about renting a unit. Respondent



admits that it informed Complainant that it was a “cat only” building and did not permit dogs. While Respondent asserts that it also asked Complainant to provide documentation substantiating that the dog was a companion animal and current on all shots, such information is not required before granting a reasonable accommodation. Despite Respondent’s assertions, sufficient evidence exists to believe that it violated the law as alleged. Specifically, Respondent admits that it informed Complainant that it was a “cat-only” building, that dogs were not permitted, and that he needed to provide licensure information. As these comments and behaviors are violations of the law as alleged, reasonable cause exists to believe that a discriminatory practice occurred in this instance.

A public hearing is necessary to determine whether a violation of the Indiana Fair Housing Act, the Indiana Civil Rights Law, and/or Title VIII of the Civil Rights Act of 1968, as amended, 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 not 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, Respondents shall have an opportunity to file an answer to this charge within thirty (30) days of service of this Charge. 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 Respondents intend to enter into a contract, sale, encumbrance, or lease with any person regarding the property that is the subject of this charge, Respondents 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).

January 14, 2016
Date

Jamal L. Smith
Executive Director
Indiana Civil Rights Commission