

BE CODE SMART

The best way to protect yourself from discrimination and from complaints is to know and respect **The Saskatchewan Human Rights Code.**



SASKATCHEWAN
HUMAN RIGHTS
COMMISSION

Policy on Support Animals

“...every person is free and equal in dignity and rights...”
(Section 3, The Saskatchewan Human Rights Code)

The Saskatchewan Human Rights Code *The Saskatchewan Human Rights Code* (the “Code”) requires the accommodation of persons with disabilities. The definition of disability includes mental disorders. Pursuant to s. 2(1)(i.1) “mental disorder” means a disorder of thought, perception, feelings or behaviour that impairs a person’s:

- (i) judgment;
- (ii) capacity to recognize reality;
- (iii) ability to associate with others; or
- (iv) ability to meet the ordinary demands of life.

Emotional Support Animals

An Emotional Support Animal is one that has been proven to be effective at alleviating symptoms of certain mental disorders. These animals provide therapeutic nurture and support to their handlers/partners. Emotional Support Animals may be prescribed by a professional or be proven retroactively where they started out as a pet but result in a person’s disability improving and are therefore identified by a professional as necessary. Typically, Emotional Support Animals are for at home support but they may be required for other forms of supports by some people. Emotional Support Animals do not require specialized training.

Case Law

Emotional support animals have been recognized as alleviating symptoms of certain mental disorders.

Court decisions in Ontario have found that landlords and condominium associations have a duty to accommodate an emotional support animal where medical evidence establishes that

the resident requires the animal to alleviate symptoms of a mental disorder.¹ In some cases, however, the medical evidence has been found to be insufficient to support the requirement for a support animal.²

Housing

The Commission accepts and investigates complaints in housing where a complainant provides sufficient medical evidence to establish that an emotional support animal is required in housing. If a person establishes a requirement for an emotional support animal, a “no pets” policy in rental or condominium housing does not apply. People with certain mental disorders rely on support animals for everyday living, and require accommodation in housing.

(i) Requesting rental housing with a support animal

Being able to substantiate the disability is essential in order to request an accommodation. It is also essential for the person with a disability to establish that the use of a support animal is necessary to assist them in their home. The tenant



need not disclose the details of his or her disability, nor provide a detailed medical history. Rather, the tenant must establish only that the tenant: (1) has a disability, (2) requires the support animal because of their disability and (3) would be at significant risk of an adverse health consequence in the absence of the animal. The tenant will be able to establish these requirements with a letter or prescription from an appropriate professional such as a physician or psychologist.

(ii) Considering the request

Once the disability and requirement for a support animal is established, the tenant's request should be considered using a "reasonableness test". It is rare that a request for accommodation to allow support animals in rental accommodation will constitute an undue hardship. Accommodation may not be possible if there is another tenant with a medically substantiated allergy who would be affected or if the tenant fails to properly control the animal. Each request for accommodation must be assessed individually. Conflicting requests for accommodation should be carefully examined to determine if it is possible to reconcile the requests.

When the request for accommodation is accepted, the "no pets" policy is lifted. Lifting the "no pets" policy is a form of accommodation and recognizes that support animals are not pets. No other measures such as extra damage or security deposits may be taken where the "no pets" rule is lifted.

Accommodating a tenant with a support animal may result in some additional expense or inconvenience to the landlord. Unless the expense or disruption impacts the landlord's operation in a fundamental way (to the point of undue hardship) the expense or inconvenience must be accepted. In the event that a support animal causes significant damage to a rental unit, the tenant may be held financially liable.

Emotional Support Animals in Public Services, Employment and Education

The duty to accommodate emotional support animals in public services, employment and education is a developing area of the law. The duty to accommodate a support animal was recognized in one Ontario decision, but it contained little analysis of the medical evidence.

Emotional support animals do not have the same training requirements as a service animal. The prospect of undue interference with the rights of third parties is enhanced. This issue will need to be assessed on a case by case basis to balance the rights of the person with a disability with the rights of businesses, educators and the public.

Footnotes:

- 1 *Niagra North Condominium Corp. No. 46 v. Chassie*, 1999 CanLII 15035
- 2 *Strumecki v. Capital Regional Housing Corp.*, 2005 BCHRT 386 and *Simcoe Condominium Corporation No. 89 v. Dominelli*, 2015 ONSC 3661
- 3 *Sweet v. 1790907 Ontario Inc. o/a Kanda Sushi* 2015 HRTO 233

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