

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS
SPRINGFIELD DIVISION**

MICHAEL W. GRAGG,)	
)	
Plaintiff,)	
)	
v.)	Case No. 10-cv-3313
)	
PARK RIDGE MOBILE HOMES,)	
BRENDEN POTTS,)	
)	
Defendants.)	

O P I N I O N and O R D E R

Before the Court is the Complaint (Doc. 1) filed by Plaintiff, Michael W. Gragg.

On December 2, 2010, Plaintiff was granted leave to proceed in forma pauperis pursuant to Title 28 U.S.C. § 1915(a)(1) which provides that a person may proceed with a lawsuit without the prepayment of filing fees if he provides an affidavit showing that he is unable to pay such fees.

Section 1915(e)(2) further provides, however, that if a complaint fails to state a claim upon which relief may be granted, it may be dismissed. The complaint in this matter alleges that Plaintiff lives in a trailer (which he may be in the process of buying) that is located on property owned by Defendants. He states that he is in the process of training a guide dog, that lives with him, and that he was accosted by Brendan Potts who told him that he must get rid of the dog. Plaintiff further alleges that the property is in disrepair. At some point after November 19, 2010, Plaintiff states that Defendant served upon him a 5-day eviction notice and that he

was further threatened with a 30-day eviction notice. The complaint does not specify whether Plaintiff in fact has been evicted; however, Plaintiff appears to contend that he is being discriminated against (with respect to both the attempted eviction and repairs) and harassed because of the guide dog. While Plaintiff cites to the Americans with Disabilities Act, it appears, rather, that Plaintiff is making a claim pursuant to the Fair Housing Amendments Act, 42 U.S.C. § 3601, *et seq.* (FHAA). The FHAA provides that it is unlawful to “discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap” 42 U.S.C. § 3604(f)(1). In order to assert such a claim Plaintiff must allege that he has either a mental or physical impairment, that he has a record of such an impairment, or that he is regarded as having such an impairment (by Defendant) and that he is being intentionally discriminated against because of that impairment. *Dadian v. Village of Wilmette*, 269 F.3d 831, 837 (7th Cir. 2001).

The complaint in this matter does not indicate that Plaintiff is disabled or handicapped (although Plaintiff receives disability payments as stated in the Motion to proceed in forma pauperis, this is not the equivalent of an allegation of disability). Nor does the complaint allege that the guide-dog-in-training, Murray, is being used by Plaintiff as an aid. Rather, the complaint only alleges that Defendants are interfering with an occupation: Plaintiff’s training of the guide dog. Plaintiff, therefore, has failed to state a claim with respect to the FHAA. Again, Plaintiff must allege that he has a mental or physical impairment, that he has a

record of such an impairment, or that Defendant regards him as having such an impairment. And, he must indicate that he is being intentionally discriminated against because of that impairment.

Rather than dismissing this complaint, Plaintiff is GRANTED until December 20, 2010 to file an amended complaint that would specify the disability or handicap that he is living with. Such an amended complaint must be consistent with Federal Rule of Civil Procedure 8: in particular, Plaintiff should indicate what relief he is seeking. Plaintiff is WARNED that the failure to comply with this Order SHALL result in dismissal of this Complaint for want of prosecution. After the amended complaint is filed, the Clerk is directed to prepare summons and copies of the amended complaint for service by the United States Marshal who is directed to serve Defendants in accordance with Federal Rule of Civil Procedure 4.

Entered this 6th day of December, 2010

s/ Joe B. McDade

JOE BILLY MCDADE
United States Senior District Judge