

Leaky A/C Unit Causes Slip and Fall
Tenant Sues Landlord for Injuries
by CD Publications

Texas. A tenant filed a lawsuit against a landlord over injuries he received when he slipped and fell on a slippery wet floor caused by a leaky air conditioning unit above the tenant's apartment.

The tenant slipped and fell in his bathroom and then sued his landlord claiming the water leaked from a defective air conditioning unit in the ceiling of his apartment. He said the leak occurred during the night after he went to bed and that he slipped on the water the next morning. The tenant alleged that he injured his knee in the fall. The tenant said he used the bathroom at around midnight and there was no water on the floor. The next morning, the tenant opened the bathroom door and slipped on water that had pooled on the bathroom floor during the night.

A neighbor who came over to help him after the fall testified there was a big puddle of water on the bathroom floor and he said the carpet near the bathroom floor was soaked with the water as well.

The neighbor said he could see water still leaking from the air conditioner unit onto the floor when he arrived that morning to assist his injured neighbor. He inspected the air conditioner's air filter and said it was covered with dirt and it was clogged. According to the neighbor, the filter needed to be replaced.

The tenant admitted it was the first time the air conditioner leaked and he acknowledged that his landlord did not have notice of the leak before he slipped and fell.

The air conditioner was less than one year old and was serviced by the landlord on a regular basis before the tenant was injured. The landlord's employees testified that they were never notified about any problems with the tenant's air conditioning unit and they did not know it was leaking until after the tenant fell.

In order to prevail in a premises liability claim, the injured party must prove:

- The landlord had actual or constructive knowledge of the condition
- The condition posed an unreasonable risk of harm
- The landlord did not exercise reasonable care to reduce or eliminate the risk, and
- That the landlord's failure to exercise reasonable care was the proximate cause of the injury.

The landlord filed a motion for summary judgment asserting it did not have a duty to protect the tenant from this type of harm. The landlord also claimed there was no evidence it had actual or constructive notice of the condition which posed an unreasonable risk of harm to the tenant as required to hold it liable for the injury.

Under Texas law, a landlord does not have a duty to protect its tenants from dangerous conditions on the premises. But there are a number of exceptions to this rule. One exception allows a landlord to be held liable for injuries caused by a defective condition of the property remaining under the landlord's control.

The tenant argued his landlord retained control over the air conditioning unit in the ceiling because they installed it and they continued to maintain it during the lease term.

But the trial court held that even though the unit was installed by the landlord, there was no evidence the landlord retained physical possession of the unit or that it was used in common with other tenants.

Another exception to the no-duty rule occurs in cases where the landlord agrees the leased property. If the landlord agrees to maintain the property, the landlord owes a duty to exercise ordinary care on behalf of its tenants.

The trial court granted the landlord's motion to dismiss the case. The tenant appealed the trial court's decision but the dismissal was affirmed by the appellate court.

In this case, the lease did not require the landlord to inspect the property once the tenant took possession. The lease only required the landlord to make repairs if the tenant notified it in writing that something needed to be repaired.

The landlord did not retain physical control over the defective unit and the tenant never notified the landlord that the unit needed repairs before he was injured. As a result, the landlord could not be held liable for the tenant's injuries.

Lesson: Since there was no evidence the landlord retained physical control over the air conditioning unit and there was no evidence the landlord knew the unit was leaking water until after the tenant was injured, the landlord could not be held liable. The landlord regularly inspected the unit and there was no evidence the landlord was negligent in not discovering the defect.

Martin D. Daitch, Appellant, v. Mid-America Apartment Communities, Inc., Appellee. No. 05-06-00543-CV (Tex. App. 2008).

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