

Landlord Pays Over \$15 Million To Tenant Following Attack By CD Publications

Florida. An appellate court affirms a jury's verdict against the owners of an apartment building and its management company for more than fifteen million dollars because the leasing agents made intentional misrepresentations to a tenant about the amount of crime at the building.

The tenant leased an apartment after being assured by the landlord's employees that the apartment complex was a safe place to live and there had not been any criminal activity in the area during the last couple of years. One of the landlord's employees told her that there was a guard on the property to patrol around the complex at night.

The tenant moved into the apartment complex based on the representation that it was a safe place for her to live at the complex. The tenant was abducted in the apartment building by three young men. She was taken to another location and shot three times in the head. Her car was stolen.

The tenant survived the attack and sued the landlord to recover for her injuries. She claimed the landlord was liable based on negligence, negligent misrepresentation and intentional misrepresentation.

The tenant alleged in her negligence claim that the landlord failed to provide adequate security to protect her from the reasonably foreseeable criminal acts that were common at the apartment complex. In her misrepresentation claims, the tenant alleged the landlord "pursued a corporate policy of misleading tenants and prospective tenants by concealing the high level of criminal activity" at the apartment complex.

The case was set for a jury trial on the tenant's claims. The tenant testified during the trial that the landlord's leasing agent told her repeatedly that the apartment complex had not experienced any problems with crime for the past couple of years and that they did have a guard on-site to protect the tenants.

The tenant presented evidence to the contrary and proved to the jury there were numerous incidents of criminal activity – including violent crimes – at the complex during the last couple of years.

Several of the landlord's former employees testified about the landlord's lack of response to their concerns about security at the apartment complex. Another former employee testified that the leasing agents were instructed by the landlord to tell prospective tenants who asked about criminal activity that "there's no crime that we know of here." The jury found in favor of the injured tenant and awarded her more than five and a half million dollars in compensatory damages plus an additional ten million dollars in punitive damages against the landlord for negligently failing to protect the tenant from the criminal attack and for the misrepresentations made to her before she moved into the building.

The landlord appeals the decision but it is affirmed by the appellate court. The landlord claimed on appeal that the trial court's decision to not allow a witness to testify on behalf of the landlord during the trial was improper. The trial court ruled that the witness' name was not listed on the witness list submitted prior to trial as required. The landlord's attorney told the court the witness was not listed on the witness list because he had not come forward with information until after the trial started.

The appellate court agrees that trial court acted properly in not allowing the witness to testify for the landlord because it would have substantially endangered the fairness of the proceeding.

The trial court said the landlord should have been able to locate and identify the witness since the witness was still working in the area. The landlord also claimed the trial court should not have excluded certain provisions of the lease agreement from the trial and that the jury should have been able to consider the entire lease agreement in reaching its decision.

The lease provisions in question limited the landlord's duty of care owed its tenants. But the landlord's attorney admitted before trial that the landlord could not require its tenants to "waive the right to provide security" in the lease. But since the issue was not raised at trial, it could not be raised on appeal.

The landlord also claimed on appeal that it should have been able to introduce a redacted lease provision which clearly informed the tenant that the landlord was not required to provide security services for the protection of its tenants or their property.

The appellate court agrees the trial court should have allowed the landlords to present this evidence but the appellate court rules it was harmless error by the trial court because the tenant testified she relied on the statements made by the leasing agents – not the lease provisions – when she decided to lease the apartment.

The trial court properly ruled that the tenant presented sufficient evidence for the jury to find that the landlord's conduct amounted to either "gross negligence" or "intentional negligence" as required to support a punitive damage award.

The jury verdict for gross intelligence and/or intentional misrepresentation is affirmed by the appellate court.

Lesson: The landlord's leasing agents were told to lie to prospective tenants about the amount of crime at the apartment complex. The injured tenant convinced the jury she relied on the false statements and that she was nearly killed as a result of believing the misrepresentations. Landlords have an obligation to protect tenants from reasonably foreseeable criminal activity on the property and a duty to warn of such dangers. As this case illustrates, lying to prospective tenants can result in large jury verdicts for injured tenants. Southstar Equity, LLC, and Brookside Properties, Inc., Appellants, v. Lai Chau, Appellee. 2008 Fla.App.

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