

HOUSING LAW

Handout

LANDLORD/TENANT

Humbert v. Sellars, 300 Or. 113, 708 P.2d 344 (1985)

FACTS

Humbert slipped and fell on a wet patio while visiting a friend's apartment. In front of the apartment was a patio enclosed by a fence. It had been raining and there were several inches of water on the patio in front of the tenant's door. On her way out she slipped in the water and was injured. The tenant said that there had been a problem with the accumulation of water since 1978. She brought a suit against the owners and manager of the apartment for damages due to injuries she received.

The Residential Landlord and Tenant Act (RLTA) provides that "a dwelling unit shall be considered uninhabitable if it substantially lacks: (h) floors...maintained in good repair." Both the trial court and the Court of Appeals found for the landlord because the RLTA was designed to reimburse tenants the difference between the fair market value of the dwelling and the value of it as it stands without the necessary improvements. It does not extend the requirements to include tenant's guests.

HANDOUT QUESTIONS

1. If you were Humbert, what arguments would you make?
2. If you were the Sellars how would you respond to these arguments?
3. If you were the trial court, how would you rule? Explain.
4. Should it be the tenant's ultimate responsibility to inform the landlord of hazards or should the landlord be held responsible regardless of notification?
5. Should guests, who have no contract relationship with the landlord, be able to sue when they voluntarily enter the landlord's property?
6. Should liability be placed on the owner of the property regardless of the situation? What about trespassers?
7. What would happen to the condition of property if the owner was not responsible for maintaining its safety?
8. After reading the actual case, answer the following:
 - a. How did the Oregon Supreme Court rule?
 - b. What reasons did the court give for its decision?
 - c. How did your decision compare with what the court decided?
 - d. Do you think that your decision was better than the one the court made? Why?

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Oregon Supreme Court

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ISSUE

Is a landlord liable for the injuries suffered by a guest on his rental property?

WHAT HAPPENED AT TRIAL?

The court granted summary judgment in favor of defendants, stating that the plaintiffs failed to demonstrate a case on any of the theories asserted.

HOW DID THIS CASE GET TO THE OREGON SUPREME COURT?

After the summary judgment against plaintiff at the trial court level was affirmed by the Court of Appeals, she appealed to the Oregon Supreme Court for review of that ruling.

ARGUMENTS

Humbert argues that the court should apply the Residential Landlord and Tenant Act which provides that landlords, as a part of maintaining habitable premises, properly maintain floors.

Sellars position is that Humbert failed to state a claim under common-law negligence and that the claim under the RLTA should be dismissed because the condition found at the apartment does not fall under the conditions that make premises uninhabitable.

WHO WON?

Humbert won. The court determined that the term "floor" included the surface the Humbert fell on and so she has a claim under the RLTA. The case was remanded to the trial court for consideration.

HOW THE COURT EXPLAINED ITS DECISION

RLTA extends the landlord's liability to others besides the tenant. The Act provides that the remedies "shall be so administered that an aggrieved party may recover appropriate damages." The term "aggrieved party" is intended to indicate that in appropriate circumstances rights and remedies may extend to third parties which include a tenant's guests who are injured if in fact the tenant could recover if he had been injured. In this case, Humbert fell on a area of the patio that is considered to be a "floor" within the meaning of Section 91.770 of the RLTA so her claim under the RLTA should not have been dismissed at the trial level.

DISSENT

The dissent argues that this case should not be reviewed by the Supreme Court for several reasons. Most importantly, in his opinion, the plaintiff did not follow proper procedure when she submitted her complaint because she did not state the theory in her complaint. The judge argues that since she stated only the claim of common-law negligence, her claims based on other theories should not be considered.

APPLICATION

1. This case discusses when a landlord may be liable for the injury to a tenant's guest but there are also some procedural issues of interest.
2. In this case the dissent argues that the plaintiff's claims should not be considered because of improper pleadings. The court's majority disagrees, saying that since the theory of the RLTA was discussed during oral argument, any objection as to the theory being outside the scope of the pleadings was waived. Have the students think of the reasons for having procedural requirements regarding the filing of the complaint. Specifically, you might want them to consider why there are timing and specificity requirements.
3. Ask the students to imagine that they fell down at a friend's house. Would they want to hold the occupier of the residence liable for their injuries or the landlord?
4. Discuss how liability is imputed when injury occurs:
 - a. if the tenant knows of the dangerous circumstances and invites guests over any way.
 - b. if the apartment manager knew of the hazard but never fixed it and never informed the owner of it.
 - c. if the guest knew of the dangerous circumstances and chose to go to the apartment any way.
 - d. if the owner knew of the hazard and did not fix it.
 - e. if the hazard developed while the tenant was in possession and the tenant never bothered to inform the manager or the owner of its existence.
5. Continue the discussion with the pros and cons of having statutory liability imposed on the owner regardless of the knowledge of dangerousness on the part of any of the parties.