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ILLINOIS LAW MANUAL

CHAPTER V

PREMISES LIABILITY

E. LANDLORD'S LIABILITY FOR INJURIES ON PREMISES LEASED TO TENANT

1. Basic Law

Generally, a landlord is not liable for injuries on premises leased to the tenant and under the tenant's control. Geurino v. Depot Place Partnership, 273 Ill. App. 3d 27 (1995); A. O. Smith Corp. v. Kaufman Grain Co., 231 Ill. App. 3d 390 (1992). This includes entrances, passageways, and other appurtenances not reserved under the landlord's control in common for the use of other tenants. Gengler v. Herrington, 219 Ill. App. 3d 6 (1991) (landlord not liable to tenant's toddler whose legs were burned by hot water, where evidence showed that landlord did not have any actual or constructive knowledge of any defect or dangerous condition and tap was within tenant's control).

2. Analysis

Determining the status of a stairway as "demised" or "common" depends on:

- (a) where the stairway leads (i.e., only to one tenant's premises);
- (b) for what and by whom it is used;
- (c) intention of the parties;
- (d) terms of the lease; and
- (e) responsibility for repairs, maintenance, and illumination.

Gula v. Gawel, 71 Ill. App. 2d 174 (1966).

Where there is no express agreement to make repairs, a landlord is not responsible for injuries sustained on leased premises by reason of their defective condition, unless:

- (a) the landlord knew, or should have known, of the defect which the tenant could not be expected to discover upon reasonable inspection; and
- (b) the landlord failed to disclose his knowledge to the tenant.

Housh v. Swanson, 203 Ill. App. 3d 377 (1990).

Absent a covenant to repair, a landlord who voluntarily undertakes to repair a leased premises has a duty to use ordinary care in carrying out the work, even though he is not under a legal obligation to make the repairs. However, the scope of this duty is limited by the extent of the undertaking. Grimm v. Arnold, 253 Ill. App. 3d 404 (1993) (landlord not liable for injury caused by railroad tie protruding onto sidewalk, even though she replaced the displaced railroad tie whenever she saw it; she did not undertake to "repair" the condition by ensuring that the tie could not be displaced in the future).

A landlord's agreement to repair defects in the tenant's premises made after execution of the lease must be supported by consideration in order to be enforceable. Yuan Kane Ing v. Levy, 26 Ill. App. 3d 889 (1975). A land trustee holding naked legal title owes no duty to maintain the demised premises in favor of tenants, even though it may have assumed this duty in trust documents with the beneficial owners. Greenlee v. First Nat. Bank in DeKalb, 175 Ill. App. 3d 236 (1988).

Violation of a statute or ordinance may be an exception to the general rule that a landlord is not liable for injuries sustained on the premises under tenant's control. However, the plaintiff must generally be within the class of persons intended to be protected by the particular statute or ordinance, and the harm caused must be of the kind that the statute or ordinance was intended to prevent. Petrauskas v. Wexenthaller Realty Management, 186 Ill. App. 3d 820 (1989); Betts v.

Crawshaw, 248 Ill. App. 3d 735 (1993); Bickerman v. Wosik, 245 Ill. App. 3d 436 (1993); Bier v. Leanna Lakeside Property Ass'n., 305 Ill. App. 3d 45 (1999).

A landlord's requirement that elderly tenants remove snow does not constitute an exception to the "natural accumulation rule." Further, the tenant's contention that the statute indicating a public policy to provide senior citizens with safe housing imposed a duty on the landlord was without merit. The statute did not protect against the type of harm suffered by the tenant. Williams v. Lincoln Towers Assn., 207 Ill. App. 3d 913 (1991).

A landlord who makes minor repairs or cosmetic changes to rental property does not become obligated to fix areas under the tenant's control or become liable for injuries that occur in those areas. Seago v. Roy, 97 Ill. App. 3d 6 (1981).

A landlord owes no duty to provide a continuous elevator service for tenants injured while using stairs, where elevator service was intermittent. Curry v. CHA, 150 Ill. App. 3d 862 (1986).