

Court of Claims of Ohio

The Ohio Judicial Center
65 South Front Street, Third Floor
Columbus, OH 43215
614.387.9800 or 1.800.824.8263
www.cco.state.oh.us

LEEANNA CHETSKO, et al.

Plaintiffs

v.

MIAMI UNIVERSITY

Defendant

Case No. 2007-03960-AD

Deputy Clerk Daniel R. Borchert

MEMORANDUM DECISION

FINDINGS OF FACT

{¶1} 1) From January 17 to January 20, 2006, a leak in the overhead water pipes in a room at a student housing facility owned by defendant, Miami University, caused damage to the personal property of plaintiff, Leeanna Chetsko, a student attending defendant university. Although the water leak was fixed by defendant's maintenance staff, falling plaster and dust from the room ceiling at the student housing facility continued to damage plaintiff's property stored in the room.

{¶2} 2) Consequently, plaintiff filed this complaint seeking to recover \$500.00 for property loss caused by the leak in the pipes, plus \$250.00 for "cleaning and inconvenience." It was explained that plaintiff, Leeanna Chetsko, had to wash her bedding several times due to leak damage and subsequent falling plaster and dust. Estimated cost of laundering was set at \$12.00. The total cost of property damage claimed amounted to \$481.21. No other damages for additional cleaning or the cost of inconvenience were documented. The \$25.00 filing fee was paid by Nancy Chetsko, the mother of plaintiff, Leeanna Chetsko.

{¶3} 3) Defendant admitted liability for plaintiff's property loss and cleaning expenses in the amount of \$493.21. Defendant also acknowledged the \$25.00 filing fee cost should be reimbursed. Defendant disputed any additional damages claimed.

{¶4} 4) A response was filed by Nancy Chetsko, who agreed with the damage assessment admitted by defendant. However, Nancy Chetsko, who signed the form complaint as a plaintiff along with Leeanna Chetsko, insisted Leeanna Chetsko should be entitled to receive some compensation for additional cleaning as well as inconvenience. It was noted that Leeanna Chetsko needed to clean the housing unit room five or six times after the room was initially cleaned by defendant's maintenance employees. Apparently, dust debris, caused by the leaking conditions, would emanate from the room radiator for months every time the heat came on in the room. Also, it was noted Leeanna Chetsko experienced the discomfort of having the dust sprayed in her hair and mouth if the room heat came on at night while she slept. In the response, plaintiffs recorded, "it took four days for maintenance to fix the leak and almost four months for the ceiling to be scraped and painted." Before repairs, "plaster fell whenever a door was shut in the room above hers (Leeanna Chetsko). Plaintiffs asserted some compensation should be paid for Leeanna Chetsko having to deal with the long term problems in the room caused by the

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water leak. The response contained information pointing out defendant charges dorm fees of \$2,750.00 per semester and the problems affecting enjoyment of the dorm room lasted for months. Therefore, additional damages should be included above defendant's admitted assessment.

CONCLUSIONS OF LAW

{¶15} 1) Defendant, by exercising control over the piping system in the student housing facility, was under a duty to maintain the system in good and safe working order. *Mosebach v. Miami University of Ohio* (1990), 90-02431-AD.

{¶16} 2) Negligence on the part of defendant has been proven in respect to breaching inspection and maintenance duties. *Krukar v. Bowling Green State University* (1991), 91-04934-AD; *Schlemmer v. Bowling Green State University* (1997), 97-05479-AD; *Philip v. Miami University* (2000), 99-15056-AD.

{¶17} 3) Plaintiff, Leeanna Chetsko, was entitled to a covenant of quiet enjoyment under the contract agreement with defendant for supplying housing facilities. The covenant of quiet enjoyment is implied into every lease contract for realty. *Dworkin v. Paley* (1994), 93 Ohio App. 3d 383, 638 N.E. 2d 636. This covenant protects the tenant's right to a peaceful, undisturbed enjoyment of the leasehold interest and a breach of the covenant occurs when the landlord obstructs, interferes with, or takes away from the tenant in a substantial degree, the benefits of the leasehold. *Id.* The degree of impairment required is a question for the trier of fact. *Id.*

{¶18} 4) A tenant is relieved of all obligation to pay rent upon a breach of the covenant of quiet enjoyment. See *GMS Management Co., Inc. v. Datillo* (June 15, 2000), Cuyahoga App. No. 75838, 2000 Ohio App. LEXIS 2626. A tenant whose covenant has been breached may recover all rent paid for the period during which the landlord's action has taken away a part of the privileges covered under the lease. See *Frankel v. Steman* (1915), 92 Ohio St. 197, 110 N.E. 747. In the instant action proof that the covenant of quiet enjoyment was breached has been established. Plaintiff, Leeanna Chetsko, has

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suffered damages in the amount of \$643.21.

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ENTRY OF ADMINISTRATIVE
DETERMINATION

Defendant

Having considered all the evidence in the claim file and, for the reasons set forth in the memorandum decision filed concurrently herewith, judgment is rendered in favor of plaintiff, Leeanna Chetsko, in the amount of \$643.21. Judgment for filing fee costs of \$25.00 is rendered in favor of plaintiff, Nancy Chetsko. Court costs are assessed against defendant. The clerk shall serve upon all parties notice of this judgment and its date of entry upon the journal.

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

Leeanna Chetsko
Nancy Chetsko
7309 Kinsman-Nickerson Road
Kinsman, Ohio 44428

Paul S. Allen
Court of Claims Coordinator
Miami University
Roudebush Hall Room 14
Oxford, Ohio 45056

RDK/laa
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