

Liability For Maintenance Subject Of Suit

A recent court case from New Jersey, *Black v. Seabrook Associates*, illustrates the extreme potential for a landlord to be held liable when a resident injures himself on the rental property.

In this case the resident, a Mr. Black, severely cut an artery in his arm when he attempted to punch open a sticking back door to his apartment. He tried to hit the solid part of the door, but he missed and put his arm through the glass in the door.

His wife rushed him to a hospital. As part of the treatment, nurses took blood and urine samples. They showed he was legally intoxicated and had traces of cocaine in his body. Moreover, in the emergency room he became combative and pulled medication out of his arm. Black died less than four hours after the accident.

His family later sued the landlord, claiming negligence in properly maintaining the door lead to his injury and eventual death.

The trial judge refused to allow the landlord to introduce evidence concerning Black's consumption of alcohol and cocaine at the time of the incident. A jury awarded Black's family \$400,000.

The judge then reduced the award to \$240,000. He assessed the victim 40 percent negligent and Seabrook Associates 60 percent responsible.

Upon appeal, the New Jersey Appellate Court found the trial judge erred by not allowing evidence of Black's drug and alcohol abuse. The high court said the information would have been relevant in helping the jury assess the extent to which Black's judgement or coordination was impaired by his alcohol and drug consumption at the time of the accident. The justices ordered a new trial in the matter.

What landlords and management companies can learn from this court case is the value of a documented, ongoing preventative maintenance program at rental properties. Obviously, the implication of failure to perform maintenance tasks and the resulting liability is almost limitless.

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