

Risk Assessment Services, L.L.C.



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Premises Liability Lawsuits: Landlord vs. Tenant (The following is for educational purposes only)

1. 69:56 \$500,000 settlement to 19-year-old female raped by intruder at YMCA. Cole v. YMCA, No. 8626-84, Sup. Ct. Kings County, N.Y., reported in Personal Injury Verdict Reviews, No. 26, p. 4, February 19, 1990.

2. 70:71 Twelve-year-old girl raped by intruder with AIDS receives \$1.4 million settlement on inadequate security claim. Alexander v. Preferred Fin. Co. of Cal., Tex., Harris County 113th Judicial District Court, No. 89-01136, Oct. 12, 1989, reported in 33 ATLA L. Rep. 115 (April 1990).

3. 70:71 Woman tenant raped at knifepoint received \$500,000 settlement from building owner on inadequate security claim; 105 other crimes on premises in prior two years. York v. Preferred Fin. Co. of Cal., Tex., Harris County 165th Judicial District Court, No. 88-50767, Oct. 9, 1989, reported in 33 ATLA L. Rep. 114 (April 1990).

4. 71:86 Jury awards \$395,000 to woman tenant raped by intruder who entered through a window with broken latch which tenant had repeatedly asked landlord to fix. Clavel v. E.G. Goldsmith, Fla., Hillsborough County Circuit Court, No. 88-22407, Aug. 31, 1989, reported in 33 ATLA L. Rep. 26 (Feb. 1990).

5. 71:87 Estates of two tenants killed in fire receive \$1.25 million settlement from building owners, managers and Security Company for alleged failure to prevent arson. Nithitan v. Campus Green, No. 85 L-2060, Circuit Court of Cook County, Ill., reported in Chicago Daily Law Bulletin, p. 3, March 27, 1990.

6. 72:102 Gun battle between drug dealers and tenant results in death of another tenant; building owners and manager settle inadequate security claim for \$1.5 million. Sekmien v. Haverstock Hill Apartment, Tex., Harris County 234th Judicial District Court, No. 87-40476, Nov. 1, 1989, reported in 33 ATLA L. Rep. 167 (May 1990).

7. 79:25 Landlord could not avoid suit for inadequate security measures by tenant raped and sodomized on premises; evidence of extensive criminal activity in building called into question adequacy of security precautions. *Carroll v. Ar De Realty Corp. N.V.*, 561 N.Y.S.2d 721 (A.D. 1990). EDITOR'S NOTE: A similar decision was recently rendered in *Gilmartin v. Helmsley-Spear, Inc.*, 556 N.Y.S.2d 632 (A.D. 1990). In that case, a female tenant filed a negligence suit against a landlord and a security service after she was injured during a forcible robbery in the lobby of the building. Recent changes in shift procedures by the security staff, which allowed the lobby to be unguarded for 15 minutes precluded summary judgment for the defendants, as the robbery took place in this period.

8. 80:39 Two female tenants sexually assaulted by an intruder to receive \$550,000 each from apartment building owner in settlement of inadequate security and misrepresentation claims. *Conway v. H.R. Management Co., Tex.*, Harris County 125th Judicial District Court, No. 89-01137, Sept. 14, 1990, reported in 34 ATLA L. Rep. 68 (March 1991).

9. 86:136 Female tenant raped in her apartment by intruder who selected her based on files in building management office awarded \$17.1 million against property management company. *Bliske v. Berry Property Management Inc.*, District Court, Corpus Christi, Tex., reported in *The Wall Street Journal*, p. B4 (Aug. 22, 1991).

10. 102:6 Landlord could be found liable for rape of secretary by intruder on vacant floor in commercial office building even absent proof of prior similar assaults; unsecured condition of vacant portion of premises and prior property crimes in building could be used to show foreseeability of rape. *Doe v. Dominion Bank of Washington, N.A.*, 963 F.2d 1552 (D.C. Cir. 1992).

11. 102:7 Building owners and building manager could be liable for abduction, rape and murder of tenant's minor female child by intruder; evidence was sufficient to create a factual issue as to whether they knew of defective door/lock, failed to repair, and refused to allow tenants to themselves fix or install deadbolt or chain locks. *Stubbs v. Panek*, 829 S.W.2d 544 (Mo. App. 1992).

12. 102:7 Tenant shot and rendered paraplegic by gunman in building entrance receives \$500,000 settlement from building owner on claim that it failed to make the premises safe by refusing to hire a desk clerk or install better entrance lighting. *Arias v. Fernwood Corp.*, Washington, D.C., District of Columbia Super. Ct., No. 90-8856, Oct. 15, 1991, reported in 35 ATLA L. Rep. 302 (Oct. 1992).

13. 105:58 Jury awards \$2.46 million against apartment managing agent for inadequate security resulting in murder and sexual assault on female tenant; apartment building owner settles claim for undisclosed sum; defendants allegedly failed to

lock and misrepresented to tenant that security guard was present patrolling on the premises. *White v. H.C. Bailey Management Co.*, Hinds County Cir. Ct., No. 91-87-203, May 27, 1992, 36 ATLA L. Rep. 18 (Feb. 1993).

14. 107:86 Landlord liable for \$150,000 in inadequate security suit for kidnapping and rape of a female tenant from building parking ramp. *Holland v. Liedel*, 494 N.W.2d 772 (Mich. App. 1992).

15. 108:106 Louisiana landlord had no duty to protect female tenant from being robbed and raped by intruder in building parking lot, absent explicit contract with tenant to supply security. *Potter v. First Federal Savings & Loan Assoc.*, of Scotlandville, 602 So. 2d 1070 (La. App. 1992).

16. 109:118 Building owner and management company liable for \$2 million to female tenant raped in apartment after two prior similar incidents in the apartment complex; husband of raped tenant also awarded \$500,000 for loss of consortium. *Doe v. First Gibraltar Bank, Ga.*, Fulton County Super. Ct., No. D-90785, Feb. 8, 1993, reported in 36 ATLA L. Rep. 173 (June 1992).

17. 109:119 Family of woman raped and murdered in her apartment by intruder awarded \$1.85 million in suit against building owner; same apartment had allegedly been entered before by a different burglar who used the landlord's ladder to reach the window of entry, as the assailant in this case purportedly did. In re. Liquidation of Pine Top Insurance Co., No. 86 CH-5898, Cir. Ct. Cook Cty., Ill., reported in Chicago Daily Law Bulletin, p. 3 (Feb. 2, 1993).

18. 110:134 Female tenant kidnapped from apartment complex laundry room and raped by intruder to receive \$1.5 million settlement in inadequate security lawsuit against building owner and building's management company. *Edwards v. M&S Assocs.*, Tex., Bexar County 150th Jud. Dist. Ct., No. 92-CI-06099, Apr. 13, 1993, reported in ATLA L. Rep. 217 (Aug. 1993).

19. 114:9 Tenant beaten and raped by intruder who entered her apartment with a stolen key receives \$4 million settlement from building management co. in inadequate security suit. *Doe v. Wilsonschanzer, Inc.*, Tex., Harris County 11th Jud. Dist. Ct., No. 91-017843, Mar. 29, 1993, reported in 36 ATLA L. Rptr. 334 (Nov. 1993).

20. 116:39 Family of female tenant kidnapped from apartment lobby by homeless person, raped, sodomized, tortured, and killed, receives \$1.3 million settlement in inadequate security suit against building owners and managers. *Zelege v. Equity Management, Inc.*, U.S. Dist. Ct., E.D. Va., Nos. 93-371-A, 93-372-A, May 3, 1993, reported in 37 ATLA L. Rep. 64 (March 1994).

21. 117:53 Woman tenant raped by unknown intruder who entered through her bedroom window awarded \$180,000 in damages against building management company in inadequate security lawsuit alleging inadequate locks and misrepresentation of level of security in building. *Veazey v. Elmwood Plantation Associates, Ltd.*, 625 So. 2d 675 (La. App. 1993).
22. 122:134 Building owner and managers reach \$695,000 settlement with female tenant raped and sodomized by two men who allegedly entered her apartment with a key; suit claimed that one of assailants was a former tenant of the same apartment and that defendants had failed to change locks after tenant left. *Doe v. Mullen Properties, Inc., Mo.*, St. Louis City Cir. Ct., No. 922-1695, June 22, 1993, 37 ATLA Law Rptr. 137 (May 1994).
23. 124:169 Female tenant raped in apartment complex receives \$450,000 settlement in inadequate security lawsuit; suit claimed that, despite close to 265 incidents on the premises, building management had told her that there had been no crime there. *Doe v. Balcor Property Management, Inc., Ga.*, Fulton County State Ct., No. 91VS48253, Sept. 14, 1993, 37 ATLA L. Rep. 230 (Aug. 1994).
24. 124:169 Estate of female tenant raped and murdered by intruder who entered apartment through sliding glass door with broken lock receives \$2.1 million settlement in inadequate security lawsuit. *Sutherland v. Benderson Dev., Inc., Fla.*, Hillsborough County Cir. Ct., No. 91-7409, Aug. 10, 1993, 37 ATLA L. Rep. 231 (Aug. 1994).
25. 124:170 California appeals court overturns \$1.2 million jury award to tenant/rape victim in case where jury found landlord 95% at fault and rapist and his accomplice on 5% at fault; apportionment of fault was "blatantly unfair." *Pamela B. v. Hayden*, 31 Cal. Rptr. 2d 147 (Cal. App. 1994).
26. 129:57 Landlord was not liable to employee of tenant who was kidnapped and raped; criminal attack was not foreseeable in absence of evidence of prior similar crimes on the premises. *Whittaker v. Saraceno*, 418 Mass. 196, 635 N.E.2d 1185 (1994).
27. 131:86 UPDATE: Louisiana Supreme Court upholds \$180,000 award against landlord to tenant raped by intruder in her apartment; court finds that it was proper to not reduce award for unknown rapist's proportion of fault; such a comparison would be "contrary to public policy" by reducing a landlord's incentives to protect against such attacks reoccurring. *Veazey v. Elmwood Plantation Associates, Ltd.*, 646 So. 2d 866 (La. 1994).
28. 132:104 \$3.5 million settlement in inadequate security lawsuit against building management by three women all allegedly attacked (and two raped) over a two month period by the same intruder who broke into the building on three occasions. *Walters v. Walters Management (U.S.) 1986, Inc., Ga.*

Fulton County Super. Ct., No. E-767, Mar. 10, 1994, reported in 38 (2) ATLA L. Rep. 64 (March 1995).

29. 133:121 \$750,000 settlement in suit by 29-year-old female tenant sexually assaulted in her apartment; suit alleged apartment complex failed to take adequate security measures despite prior similar crimes on the premises. Doe v. Krupp Realty Co., Ga., Fulton County Super. Ct., No. E-363, June 29, 1994, reported in 38 ATLA L. Rep. 149 (May 1995).

30. 134:137 Landlord had no duty to protect guest of tenant from abduction in parking lot, sexual abuse and murder, even if it did have, for sake of argument, a duty to protect tenant. Kenney v. Cox, 649 So. 2d 15 (La. App. 1994).

31. 138:7 \$1.5 million settlement in suit brought by female tenant abducted from apartment building laundry room and raped; inadequate security suit claimed that building promised roving security patrols but that sole security guard had been fired and not replaced before incident. Doe v. Genmar Realty Group, Tex., Harris County 165th Jud. Dist. Ct., No. 93-41406, May 10, 1995, 38 ATLA L. Rep. No. 7, p.272 (Sept. 1995).

32. 138:8 Tenant in multi-vendor jewelry sales building awarded \$850,000 for loss of items placed in his safe overnight; plaintiff argued building security was inadequate and that defendant building owner should have conducted more thorough investigation into janitor's background. Sogomonyan v. Discount Jewelry Center, BC094852, L.A. Superior Central Court, Los Angeles, Calif., Sept. 1, 1995, 108 (181) Los Angeles Daily Journal Verdicts & Settlements, p. 4 (Sept. 22, 1995).

33. 143:88 Award of \$250,000 against landlord to female tenant robbed and raped in apartment building was erroneous despite evidence of defective front door lock on building, in absence of any evidence to show that this was how assailant actually gained entry to building. Kirsten M. v. Bettina Equities Co., Inc., 634 N.Y.S.2d 481 (A.D. 1995).

34. 144:104 Arkansas Supreme Court rules that landlord's "modest, conscientious measures" aimed at deterring on premises crime did not result in its assumption of a duty to protect tenants against third-party assault; apartment complex landlord was not liable for shooting and killing of tenant's 17-year-old son by other tenant's guest. Hall v. Rental Management, Inc., 913 S.W.2d 293 (Ark. 1996).

35. 145:121 Landlord's were not liable for shooting of tenant's employee by her co-worker; landlord had no duty to provide security inside rented office premises which tenant had exclusive right to control. Gale v. North Meadow Associates Joint Venture, 466 S.E.2d 648 (Ga. App. 1995).

36. [N/R] Out-of-possession landlord had no duty to provide security at business facility and assaulted employee was not a

third-party beneficiary of security contract between security firm and his employer. O'Gorman v. Gold Shield Security & Investigation, Inc., 633 N.Y.S.2d 517 (A.D. 1995).

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