

Water Intrusion/Mold: Lessee Files Action Alleging Breach of Lease in Crittenden County, Arkansas Circuit Court



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Ruby Evans (“Plaintiff”) filed a Complaint on November 19th against United Apartment Group Management, Incorporated (“Defendant”) alleging certain causes of action related to the leasing of an apartment. See CV2020-623.

The Complaint states Plaintiff entered into a lease agreement with Defendant to lease an apartment in West Memphis, Arkansas.

The lease is stated to have been undertaken pursuant to and in connection with the United States Department of Housing and Urban Development (“HUD”) Housing Choice Voucher Program (“Program”).

Plaintiff alleges that in September 2019 Defendant was informed of water leaks within the apartment. They are described as water intrusion through the concrete foundation which saturated the floors. It is further alleged that the Defendant failed to respond to requests for maintenance.

The Complaint alleges:

- Reoccurring respiratory issues related to the apartment condition
- Arm and leg rashes
- The Plaintiff’s grandson having to temporarily moving out of the apartment
- Continued failure to respond to requests for maintenance
- Request to West Memphis Code Enforcement regarding conditions in the apartment
- Growth of mold in the apartment
- Failure to meet HUD program quality standards which are stated to address:
 - Sanitary facilities
 - Interior air quality
 - Sanitary conditions

Mold will only grow if there is a suitable temperature and both a food source and moisture are available. Eliminating any one of these required factors terminates growth. The relative effectiveness of addressing one or more of these growth factors in the structural context is therefore an important question.

Temperatures found in most parts of the structure will support mold growth. In addition, various building materials or components may provide nourishment for mold growth. Water, therefore, is typically the key growth factor in the structural setting.

The Plaintiff alleges that it has a landlord/tenant relationship with Defendant. It is further alleged that the landlord is subject to liability for physical harm allegedly caused to the tenant and others upon the leased property. . . if:

1. the landlord, as such, has contracted by a promise in the lease or otherwise to keep the leased property in repair;
2. the disrepair creates an unreasonable risk to persons upon the leased property which the performance of the landlord's agreement would have prevented; and
3. the landlord fails to exercise reasonable care to perform his contract.

Also cited is Defendant's participation in the HUD program which is alleged to constitute a promise to keep the leased property in repair.

The Complaint also alleges that the landlord effectively deprived the Plaintiff of the use and benefit of the premise and constituted a constructive eviction.

Additional causes of action referenced in the Complaint include:

- Unjust Enrichment
- Bad Faith and Stubborn Litigiousness
- Negligence
- Deceptive or Unfair Practices in Violation of Arkansas Code Annotated § 4-88-107 *et seq.*

A copy of the Complaint can be downloaded [here](#).