

Leases IV

Property — Professor Grimmelmann
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Abandonment

Sommer v. Kridel

The Pierre Apartments



Sommer v. Kridel

- ✦ James Kridel moves out and stops paying. Who's been in that situation? What did you do? What happened?
- ✦ Look at the letter Kridel sent (page 505). Sommer never replied. In contracts terms, what do you make of this exchange?
- ✦ At common law, the landlord could (a) keep the premises vacant and sue for the full rent at the end; (b) “accept” the surrender and terminate the lease; or (c) relet the premises and sue for the balance. As a landlord, which would you prefer? What if the tenant is rich? What if the tenant has declared bankruptcy? What else might matter?

The landlord's duty to mitigate

- ♦ *Sommer* holds that when the tenant abandons, the landlord has a duty to mitigate damages. What did the landlord do, and was it enough?
- ♦ What happens if the landlord makes a diligent effort and finds a new tenant? If the landlord makes a diligent effort but doesn't find one? If the landlord doesn't even try?
- ♦ Should the duty of finding a replacement be on the tenant instead?
- ♦ Note b: If the landlord has more than one vacant apartment, is the *Sommer* rule fair? What will happen when a possible tenant shows up?

Note d problems

- ♦ Two year lease; studio apartment; fourth floor; 20-unit complex; \$1000/month rent. T abandons one year in.
- ♦ (1) L places a newspaper ad. When U shows up, L shows her every other studio first, saving T's for last.
- ♦ (2) L puts a 2x3 sign in the window of T's unit: "For rent. Call 851-0341." No one calls or inquires.
- ♦ (3) L hires a broker for all her apartments, T's included. The broker finds V, who offers \$900/month. L refuses.

Security deposits

- ♦ Anyone had trouble getting back a security deposit? (Or been on the landlord side of security deposit dispute?) What happened?
- ♦ Note a: Why regulate security deposits? Is there a danger here the market can't easily fix?

Reasons for eviction

Hillview Associates v. Bloomquist

- ♦ The landlord serves thirty-day notices of eviction on eight tenants. *Under ordinary circumstances*, does it seem like this would be allowed?
 - ♦ Why, then, do the tenants allege it was a retaliatory eviction? What's the purpose of having a retaliatory eviction doctrine?
- ♦ Nitz told the tenants to leave her office and they refused. Why isn't this a sufficient ground for eviction? [Or is this the wrong question?]
- ♦ Does this three-step framework seem familiar from anywhere? Here, you see the workings of the second and third steps.

AIMCO v. Dziewisz

- ♦ What kind of lease was this? Come July, what did the landlord do?
- ♦ The New Hampshire statute, like the Iowa one, restricts the landlord's reasons for eviction. But it goes further and requires "good cause." What would count as good cause?
- ♦ The question here is whether the end of the lease constitutes "good cause." What does the court say? How does it get there? Do you agree?
- ♦ Compare this case with *Kajo Square*. Is this a "lease for life?"

Where would you draw the line?

- ♦ Landlord may evict at any time for any reason.
- ♦ Landlord may evict for breach or at the end of the lease. [common law]
- ♦ Landlord may evict for breach or at the end of the lease and may not retaliate. [Iowa]
- ♦ Landlord may evict *only* for breach and may not retaliate. [New Hampshire]
- ♦ Landlord may not evict.

Eviction procedure

Berg v. Wiley

Site of restaurant today



Berg v. Wiley

- ♦ What's Wiley's initial beef with Berg and her restaurant?
- ♦ After he serves her a two-week notice to repair, what does she do? Is this an abandonment?
- ♦ Wiley was *hanging from the awning*? How does he then retake the premises? What procedure does he follow? What happens? As Wiley's attorney, would you have advised him any differently?
- ♦ Wiley claims a right to retake under clause 7 (note 1 on page 524). What do you think of the terms of that clause?

Self-help evictions

- ♦ The question: can a landlord engage in self-help evictions, or must he go through judicial process? Anyone have experience with eviction process? What happens in one? How long does it take?
- ♦ It's always been required that any self-help eviction be "peaceable." Was Wiley's retaking in fact peaceable? On what basis does the court hold that it wasn't? Is self-help ever now peaceable?
- ♦ Result: a bright-line rule requiring resort to judicial process. What effect will this have on evictions? On rents? Is this a good rule? Can you (note e) contract around it?

Congratulations: that's all for landlord-tenant

- ✦ We started with lease formation: discrimination in the choice of tenant and the kinds of permissible leases.
- ✦ Then we studied L and T's duties, especially the landlord's obligations relating to the condition of the premises.
- ✦ Next, we analyzed transfers of L and T's interests (assignment or sublease).
- ✦ And we finished by asking how L and T can end the relationship.