No. 23-CV-965

DISTRICT OF COLUMBIA COURT OF APPEALS

Patrick Woodley, Jr.,

Appellant,

v.

Woodberry Village Apartment,

Appellee.

ON APPEAL FROM
THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA,
CIVIL DIVISION CASE NO. 2021 CA 002357 B

SUPPLEMENTAL BRIEF OF APPELLANT PATRICK WOODLEY

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RULE 28(a)(2)(A) STATEMENT

The parties to this case are Appellant Patrick Woodley and Appellee Woodberry Village Apartment. In Superior Court, Mr. Woodley was unrepresented. On appeal, Mr. Woodley is represented by Jonathan H. Levy and Fran Swanson of Legal Aid DC. In Superior Court, Woodberry Village Apartment was represented by Mark R. Raddatz. On appeal, Woodberry Village is represented by Mark R. Raddatz and Christopher Gowen.

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BRIEF OF APPELLANT PATRICK WOODLEY

QUESTIONS PRESENTED

1. Whether a tenant has a duty to mitigate damages when he seeks money damages for a unit his landlord has made uninhabitable.

2. Whether a landlord carries its burden to establish a tenant's duty to mitigate damages by asking the tenant to self-evict, in violation of statutory protections, and move to a unit that the tenant cannot access because of his disability.

3. Whether, after finding a unit "clearly uninhabitable" for at least two years and three months, a trial court commits legal error in awarding only $7,500 in damages when the monthly rent paid for that period totaled of $22,788.

STATEMENT OF THE CASE

For years, Patrick Woodley lived in a decrepit unit – no refrigerator, a collapsed ceiling, and a bathtub he used instead of his broken toilet. He sued Woodberry Village Apartment, the Landlord, for breach of the implied warranty of habitability and disability discrimination. The Landlord was represented at trial, but Mr. Woodley was not represented until this appeal.

At a bench trial on November 6, 2023, Mr. Woodley entered 200 exhibits into evidence and testified extensively about his uninhabitable ground-floor apartment, where he lived for years at a monthly rent of $844. *See* JA 17 (entering Mr. Woodley's exhibits into evidence without objection). Mice roamed the unit. JA 34 (Mr. Woodley testifying to mice "running everywhere, freely"), 89-92, 94, 97. He had no heat for seven years. JA 39. He did not have a working refrigerator for two years, JA 45, 48, so he had to buy new food every other day, JA 58. His ceiling caved in and remained like that for two years. JA 42, 48, 88, 93, 96, 98-99, 102-03. That exposed asbestos, JA 42, and water poured into the unit, JA 36. Mold grew throughout the apartment. JA 45, 100-01. Mr. Woodley had no electricity for a month. JA 44. For one year, Mr. Woodley had no working toilet, JA 19-20, 32, and

used his bathtub as a toilet, JA 19-20, 85-87, 95. At times, he used dog waste bags to dispose of his own waste. JA 46.

In July 2021, the Landlord told Mr. Woodley that his water would be turned off indefinitely to accommodate renovations. The Landlord offered Mr. Woodley a third-floor relocation unit, JA 110 (relocation notice describing a third-floor apartment), which he could not use because of his stroke-related disability, JA 108-09.

Mr. Woodley also testified that the Landlord repeatedly ordered him to the rental office in person but then barred him from entering with his service animal. JA 26.

The Landlord did not cross-examine Mr. Woodley at trial. JA 60. And it offered into evidence only copies of the notices served on Mr. Woodley threatening his housing and offering him the unusable relocation unit. JA 59, 110.

The trial court began its decision with a factual finding: Mr. Woodley's "apartment [was] clearly uninhabitable." JA 7. But it awarded Mr. Woodley just $7,500 in damages – less than nine months' rent – on his claim for breach of the implied warranty of habitability.[1] JA 7. Although the trial court did not explain

[1] The Landlord did not cross-appeal and so cannot challenge the $7,500 award, yet – for two years – has failed to pay that award and the post-judgment interest of five to six percent that Mr. Woodley is owed, *see* D.C. Code § 28-3302(c) (last visited September 9, 2025).

precisely how it arrived at this $7,500 figure, that figure was so low in part because the trial court concluded that Mr. Woodley failed to mitigate his damages by moving when his Landlord requested that he move. The trial court held that this failure barred Mr. Woodley from recovering for damages incurred after that request. JA 7. The trial court did not address whether the Landlord carried its initial burden on this affirmative defense nor did it cite to any caselaw applying the duty to mitigate to tenants.[2]

STANDARD OF REVIEW

This Court reviews the trial court's factual findings for clear error and its legal conclusions *de novo*. *Caesar v. Westchester Corp.,* 280 A.3d 176, 190 (D.C. 2022). Whether Mr. Woodley had a duty to mitigate housing conditions damages is a question of law reviewed *de novo*. *See N.O.L. v. District of Columbia*, 674 A.2d 498, 499 (D.C. 1995).

SUMMARY OF THE ARGUMENT

For years, Mr. Woodley lived in a decrepit unit with a mice infestation and a caved in ceiling and without heat or a working toilet. Despite having no lawyer, he sued the Landlord for breach of the implied warranty of habitability and the trial court agreed that the unit was "clearly uninhabitable." But he was awarded less than a third of what he was, by law, entitled to.

[2] The trial court also dismissed Mr. Woodley's disability discrimination claim.

First, the trial court legally erred when it held that Mr. Woodley had a duty to mitigate damages and therefore held that he could not recover for the "clearly uninhabitable" conditions he suffered after he refused the landlord's offer to evict himself. No jurisdiction imposes such a duty on tenants challenging housing conditions, and for good reason: Doing so would violate statutory protections for tenants and incentivize landlords to let units fall into disrepair to facilitate unlawful evictions.

Second, even if tenants raising housing conditions claims could, in some circumstances, have a duty to mitigate, mitigation is an affirmative defense on which the landlord would bear the burden. The Landlord offered no evidence to carry that burden, nor did the trial court ask whether the Landlord had done so. And the Landlord could not have met this burden when it asked Mr. Woodley to self-evict in violation of statutory protections and move to a unit that he could not use because of his disability and that was otherwise inferior because of the lack of outdoor space for his dogs. All of this, too, was legal error.

Third, the trial court legally erred in awarding Mr. Woodley only $7,500, based on a duty to mitigate, when he was entitled to at least $22,788.

ARGUMENT

I. A TENANT HAS NO DUTY TO MITIGATE DAMAGES CAUSED BY A LANDLORD'S BREACH OF THE IMPLIED WARRANTY OF HABITABILITY.

This appears to be the first time that any court, in any jurisdiction, has imposed a duty to mitigate on a tenant seeking damages for his uninhabitable unit. The D.C. Code imposes on *landlords* a duty to mitigate damages after a tenant's breach of a rental agreement. D.C. Code § 42-3505.52. But it does not similarly impose on tenants a duty to mitigate damages. *See id.* The Council knows how to impose a duty to mitigate on a party to a landlord-tenant dispute but chose not to impose this duty on tenants living in uninhabitable conditions.

Imposing a duty to mitigate in a claim for breach of the implied warranty of habitability would require tenants to self-evict in violation of the District's eviction protections. By statute, tenants can only be moved for repairs according to a carefully prescribed set of procedures. *See* D.C. Code § 42-3505.01(f). This provision applies both where renovations are discretionary and where they are necessary to bring a rental unit into compliance with the housing code. *See* D.C. Code § 42-3505.01(f)(1)(A)(v)(II). For example, before forcing a tenant to relocate, a landlord must file plans for the renovations with the Rent Administrator and Chief Tenant Advocate and provide the tenant with notice of the application, an explanation of his rights, and a summary of the renovation plan. D.C. Code

§ 42-3505.01(f)(1)(A). Landlords can only relocate tenants pursuant to renovation and relocation plans that the Rent Administrator determines have complied with three statutory factors. D.C. Code § 42-3505.01(f)(1)(A)(v). The Landlord did not represent that it followed any of these or the law's other procedures in seeking to evict Mr. Woodley.

The Council enacted this detailed regulatory scheme to stop landlords from evicting tenants to redevelop units and charge more rent. The Committee Report explained that landlords used the old procedures, without these protections, as "part of a strategy to empty the buildings of tenants to allow for their redevelopment into market-rate apartments." D.C. Council Committee on Consumer and Regulatory Affairs, Committee Report on Bill 16-556, "Tenant Evictions Reform Amendment Act of 2006" (Feb. 10, 2006), at 2. Requiring a tenant to relocate when the statutory procedures were ignored would greenlight landlords to do just that.

Imposing a duty on tenants to mitigate would also create perverse incentives for landlords to violate the warranty of habitability implied in all District leases, *Javins v. First National Realty Corp.*, 428 F.2d 1071, 1082 (D.C. Cir. 1970), making an end run around valid leases and tenants' right to stay in their units. And, it would incentivize landlords to let their units fall into disrepair and then skirt established procedures for legal evictions by offering the alternative unit of the landlord's choosing.

II. BREACH OF A DUTY TO MITIGATE IS AN AFFIRMATIVE DEFENSE.

Even if mitigation were an available defense, it is an affirmative defense, and so the burden would have been on the Landlord as the breaching party to prove that Mr. Woodley could have avoided damages by reasonable effort. *See Sizer v. Lopez Velasquez*, 270 A.3d 299, 303-04 (D.C. 2022). But the Court instead put the burden on Mr. Woodley and held that he failed to carry that burden when he did not accept the Landlord's offer of a different unit. JA 6-7. Putting the burden of proof on the wrong party is, alone, reversible error. *See, e.g.*, *Columbia Realty Venture v. District of Columbia Rental Housing Commission*, 590 A.2d 1043, 1048 (D.C. 1991) (reversing part of decision that put burden of proof on wrong party).

Separately, there is no evidence in the record that the Landlord *could* have carried its burden. The Landlord would have had the burden to prove that the other unit was "comparable" to the unit that Mr. Woodley would have been living in, but for the Landlord's breach. *See*, *e.g.*, *Natural Motion By Sandra, Inc. v. D.C. Commission on Human Rights*, 687 A.2d 215, 221 (D.C. 1997) (no duty to mitigate damages from wrongful termination of part-time employment unless "comparable part-time work was available"); *Gamble v. Smith*, 386 A.2d 692, 695 n.10 (D.C. 1978) (mitigating damages in auto accident by obtaining a "comparable replacement vehicle[]"). The only evidence in the record shows that the unit the Landlord offered Mr. Woodley was not comparable to the unit the Landlord was demanding Mr.

Woodley vacate. The Landlord offered Mr. Woodley a third-floor unit. JA 110. But Mr. Woodley requires a ground-floor apartment because he is disabled after suffering a stroke. JA 108-09.

III. THE $7,500 DAMAGES AWARD WAS INSUFFICIENT AS A MATTER OF LAW.

The trial court credited Mr. Woodley's undisputed allegations of pervasive and substantial housing code violations and found that they made the "apartment clearly uninhabitable." JA7. Those uncontroverted, substantial housing code violations include:

- Mr. Woodley's ceiling has been caved in for two years. JA 42, 48. The ceiling's partial collapse allowed water to pour into Mr. Woodley's unit. JA 36. "[C]eilings with substantial holes" are a "substantial housing code violation," as are "[l]eaks in the roof or walls." 14 DCMR § 1799.
- Mr. Woodley had no heat for seven years. JA 39. "Frequent lack of sufficient heat" is a "substantial housing code violation." 14 DCMR § 1799. District landlords must provide heat from October 1 through May 1. *See* https://oag.dc.gov/release/tenant-alert-you-have-right-stay-warm-your (Office of the Attorney General "Tenant Alert: You have a right to stay warm in your apartment") (last visited September 8, 2025); *see also* https://dob.dc.gov/service/dc-housing-code-standards (Department of

Buildings "DC Housing Code Standards") (last visited September 8, 2025).

- Mr. Woodley had no electricity for a month. JA 44. "Curtailment of utility service, such as gas or electricity" is a "substantial housing code violation." 14 DCMR § 1799.
- Mr. Woodley's unit had mice "running everywhere, freely." JA 24; *see also* JA 89-92, 94, 97. "Infestation of . . . rodents" is a "substantial housing code violation." 14 DCMR § 1799.

The Landlord did not contest the nature or duration or any other part of these violations. And so, of course, the trial court found that the "apartment is clearly uninhabitable." JA 7.

The amount of Mr. Woodley's breach-of-contract damages "is the amount necessary to place the non-breaching party [Mr. Woodley] in the same position he or she would have been in had the contract been performed." *Rowan Heating-Air Conditioning-Sheet Metal, Inc. v. Williams*, 580 A.2d 583, 585 (D.C. 1990). A "tenant's basic liability for rent is dependent" on a landlord's "duty to provide safe, habitable housing." *Curry v. Dunbar House, Inc.*, 362 A.2d 686, 690 (D.C. 1976). A "clearly uninhabitable" unit has a rental value of zero, and, based on the trial court's factual finding that his unit was uninhabitable, Mr. Woodley was, as a matter of law, entitled to the difference between the unit's rental value of zero and his

monthly rent of $844 as damages. *See Bernstein v. Fernandez*, 649 A.2d 1064, 1072 (D.C. 1991) (evidence of persistent, severe housing conditions problems is sufficient to support complete rent abatement).

The "relevant time period" for this calculation is when Mr. Woodley "lived there." *Chibs v. Fisher*, 960 A.2d 588, 590 (D.C. 2008). It is undisputed that mice were "everywhere" in Mr. Woodley's unit and, for two years, his ceiling had collapsed and he had no refrigerator. JA 34 (mice), JA 48 (ceiling, refrigerator). And Mr. Woodley had no toilet for at least one year. JA 29, 41. Beyond that, it was uncontroverted that Mr. Woodley had no heat for seven years. JA 39. The trial court should have awarded Mr. Woodley the full amount of his rent, as damages, for at least two years, which is $20,256.[3] To the extent that a lack of heat rendered the unit unlivable during some winter months, as it did for *at least* December through February, Mr. Woodley was entitled to 100% of his rent as damages for those additional months in preceding years too, for an additional $2,532 and a total of $22,788. *See Lynch v. Ghaida*, 319 A.3d 1008, 1018-19 (D.C. 2024). And for the additional heat-mandatory months (October, November, March, and April), the amount of damages would be measured by how much the value of the unit was

[3] Mr. Woodley's monthly rent was $844. His damages should be the amount that he paid for twenty-four months: 24 x $844 = $20,256. *See Anderson v. D.C. Housing Authority*, 923 A.2d 853, 855 (D.C. 2007) (rent abatement is calculated by reference to the actual amount the tenant paid).

diminished for Mr. Woodley, which could be up to 100% (and therefore up to an additional $3,376, for a total of $26,164). *See id.* at 1020. The trial court's award of $7,500 was insufficient as a matter of law.

CONCLUSION

For the foregoing reasons, this Court should remand for a recalculation of damages not less than $22,788.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that I caused a true and correct copy of the foregoing SUPPLEMENTAL BRIEF OF APPELLANT to be delivered electronically, through this Court's e-filing system on November 3, 2025, to:

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