

CASE BRIEFING EXPLANATION AND EXERCISE FROM THE ACADEMIC SUCCESS PROGRAM

The Academic Success Program at Northeastern University School of Law exists to enhance students' academic experience. Whether a student is returning to school from the workforce and feels the need for some additional help, is concerned about improving test-taking skills based on previous experience, or is just interested in making sure he or she is getting the most from his or her law school education right from the beginning, workshops offered by the Academic Success Program can help.

For information on the program and what it offers for first year students, you can go to: <http://www.slaw.neu.edu/asp/> or call me at 617 373-3960 or e-mail me at: m.drew@neu.edu.

This case briefing explanation and exercise is included in this mailing to give you a jump start on your legal reading and analysis skills. Read through the exercise and try it on your own.

Bring your completed brief with you to the "Case Briefing" workshop which will be offered shortly after school begins. We'll discuss it then and I will give you a sample case brief to compare to yours, along with other information that will help you get started in law school.

I look forward to meeting you all.

**Professor Melinda Drew
Director
Academic Success Program**

CASE BRIEFING

Case briefing is a way to remember cases – who was involved in the case, what the case was about factually, at what stage of litigation the case was decided, how the court decided the case and why, and how to locate the case. However, a case brief is not just a summary of the case but a reduction of the case to its essential components. You will use your case briefs to study, to outline your courses, and to help you apply a legal rule to a new set of facts given to you in an in-class hypothetical or on an exam. Additionally, case briefing is also a way to understand how the law has evolved as you read cases in which the court builds on previous law.

There are many ways to prepare a case brief. One typical way is for study purposes - capturing the essential information contained in a case to help you remember it for class discussion and for the outline you will likely prepare while studying for exams (I will teach you how to make an outline at a workshop later in the Fall). At some point you may find a problem-solving case brief useful - that is, a case brief that help you to understand how the case you are reading assists in predicting the outcome of a case on which you are working. For now, however, we will work with a shorter case brief. By the way, there is no one correct way to brief cases. This exercise will show you one of many perfectly correct and useful ways to brief a case.

Ok, let's start. Attached is a case, Center Mgt. Corp. v. Bowman, 526 N.E.2d 228 (Ind. 1988). It was brought by a tenant whose apartment was burglarized by someone using a master key and the tenant alleges that the landlord's failure to adequately limit and monitor use of master keys caused the tenant's loss. This is the kind of issue you will deal with in, for example, your Torts class. That is, when does someone have a duty to protect another such that his or her failure to carry out that duty makes him or her liable for any resulting damage or harm? To begin this exercise, please read the Bowman case before going on to the next section of this exercise.

STOP AND READ THE CASE (BELOW) NOW, THEN CONTINUE READING ON THIS PAGE

How to Brief a Case

1. Write the name of the case and its citation.

You will learn the conventions for case names when you begin to learn citation form in your writing course. For now, it is sufficient to know that you use the last names of individual parties and the full name for corporations and governmental entities with some required abbreviations and deletions. You should only use the first party name on each side of the case. The citation includes the reference to the volume and page of the source or sources (case reporters) where the case may be found. In addition, the citation must include the designation of the deciding court (if not otherwise obvious from the reporter being cited) and the year of decision. *The Bluebook* (which you will learn to use in your writing course) and the *ALWD Citation Manual* (another book that teaches legal citation) both describe the minutia of legal citation.

Hint: the correct citation form for the attached case appears above!

2. Write down the parties involved in the case.

Give a short designation or description of the parties in the case. In addition to identifying the parties as plaintiff or defendant, or petitioner or respondent (their designation in the court below), you will ordinarily want to list their appellate designation, appellant (the party appealing the decision below) or appellee (the party responding to the appeal). In addition, you should use a real world designation, like landlord or tenant, which will help further describe the “social location” of the party.

3. Set forth the prior proceedings (or procedural posture).

Describe what has happened in the case previously and how it got to the present tribunal (court). Ordinarily, some decision is entered by a trial court, e.g., a ruling on a motion or judgment on a trial verdict, from which one party appeals. You need to describe the action(s) taken below (including any intermediate decision by other inferior courts) and who appealed what decision to the present court).

4. Set forth the key facts.

Include only those facts that the court found important in deciding the case – slice away extraneous facts. (If you were briefing this case to use it as precedent for a case you were working on, you would want to include all facts necessary to analogize or distinguish between the decided case and the case you are working on.)

5. Set forth the relevant issue(s) in the case.

What issue(s) was the court trying to decide? If you were preparing this case brief for studying purposes, you would concentrate on the issues you are presently studying in your class. If you were preparing this case to use as precedent for a client’s case you are working on, you would concentrate on those legal discussions that are germane to the issues in your client’s case.

6. Set forth the relevant holding(s).

Describe how the court ruled or decided each issue(s) you identified above. If there is more than one issue in the case and you are only interested in one of them, you would have identified only that one (see 5. above) and, therefore, you need only to describe the holding as it relates to that one issue. The holding is both specific to the facts and procedural posture of the case, but somewhat generalizable to other cases.

7. Set forth the rule(s).

State the rule of law that the case stands for. This is different from the holding, which is more procedurally and factually specific. The rule is generally a more abstract principle of law and was probably used by the court as the principal support for its holding.

8. Set forth the court’s rationale.

Summarize the court’s reasoning, the use of precedent, policy, and argumentation by which it reached and justified its decision in the case. Sometimes the court’s rationale is extensive; in other cases, however, the court’s reasoning is fairly brief.

9. Set forth the court's disposition of the case.

Give the court's decision - what it ordered to be done in the case. The typical dispositional options are to affirm or sustain the judgment below or to reverse for error. Sometimes, when there is a reversal, the court will enter a judgment; in other circumstances, it will remand the case back to the lower court for further proceedings.

Now, having read the case once, read it again, this time looking for the various categories set forth above. Then try briefing the case using those categories. For convenience, I have attached a case briefing form. Try to keep your brief to one page. Once you have finished your case brief, don't forget to bring it to the **Case Briefing Workshop** to be held within the first couple weeks of school where you will be able to compare your case brief to the sample brief I will hand out.

CASE BRIEF
Center Mgt. Corp. v. Bowman

PREPARED BY _____

Case Name and Citation:

Parties:

Prior Proceedings (Procedural Posture):

Key Facts:

Relevant Issue(s):

Relevant Holding(s):

Rule:

Rationale:

Disposition:

Court of Appeals of Indiana,
Third District.

CENTER MANAGEMENT CORPORATION
and Center City Housing, Defendants-
Appellants,

v.

Kim BOWMAN, Plaintiff-Appellee.

No. 71A03-8710-CV-279.

July 28, 1988.

Tenant filed suit against landlord alleging that landlord's master key policy allowed her apartment to be burglarized by landlord's employee. The Superior Court, St. Joseph County, Small Claims Division, Jerome Frese, J., granted judgment in favor of tenant. On appeal the Court of Appeals, Hoffman, J., held that: (1) landlord had duty to protect its tenants from entry into apartment by employees; (2) landlord's master key policy breached that duty; and (3) evidence was sufficient to support finding that landlord proximately caused tenant's loss by its master key policy.

Affirmed.

West Headnotes

___ **Landlord and Tenant** 164(1)
[233k164\(1\) Most Cited Cases](#)

In determining whether landlord has duty to protect its tenants from third-party criminal actions, court should consider foreseeability of the tenant's injury, magnitude of the burden of guarding against the injury, and consequences of placing that burden on the landlord.

___ **Landlord and Tenant** 166(1)
[233k166\(1\) Most Cited Cases](#)

Landlord had duty to protect tenant from burglary of her apartment by either maintenance employees or carpeting cleaning company employees through use of master key.

___ **Landlord and Tenant** 166(1)
[233k166\(1\) Most Cited Cases](#)

Landlord's allowance of unquestioned access to master key by large number of maintenance employees, which thwarted any attempt to determine who perpetrated burglaries in apartment with key, supported conclusion that landlord's policy proximately caused injury to tenant caused by burglaries.

___ **Landlord and Tenant** 169(7)
[233k169\(7\) Most Cited Cases](#)

Evidence was sufficient to support finding that landlord proximately caused tenant's loss from theft of her apartment by its policy of allowing maintenance employees unquestioned access to master key; lack of forced entry into tenant's apartment, access to master keys which employees had, discovery of missing jewelry at pawn shop frequented by one employee, and previous burglaries in complex without signs of forced entry was sufficient.

*229 Rebecca Hoyt Fischer, Kramer, Butler, Simeri, Konopa & Laderer, South Bend, for defendants-appellants and for Amicus Curiae River Bend Apartment Assn.

Mitchell R. Heppenheimer, South Bend, for plaintiff-appellee.

HOFFMAN, Judge.

Defendants-appellants Center Management Corporation and Center City Housing appeal a trial court judgment in favor of plaintiff-appellee Kim Bowman in the amount of \$1,300.00 plus costs.

The evidence relevant to this appeal discloses that Bowman discovered the loss of a \$50.00 bill from her apartment on February 20, 1986. The theft was reported to the South Bend police and to Center Management, the managing company of her apartment building. After an investigation the police determined that there were no signs of a forced entry. At Bowman's request the lock on her apartment door was changed by Center Management.

On February 27, 1986 Bowman discovered that four items of jewelry had been stolen from her

apartment. A second investigation by the police revealed that entry had been gained apparently by a key.

In July 1986 Bowman brought a small claims court action against Center City, the owner of the apartment; and Center Management, the managing company was added as a party later. Bowman claimed agents of defendants had gained entry into her apartment to commit the burglaries by use of a master key and that the defendants had breached a duty owed to her as a tenant.

In August 1987 after a trial, the court ruled that the defendants were jointly and severally liable for the loss.

On appeal Center Management and Center City raise two issues for review:

- (1) whether the trial court erred in determining that the defendants' actions were a proximate cause of Bowman's loss; and
- (2) whether the trial court's decision is supported by sufficient evidence.

The parties and amicus do not refer this Court to any cases in Indiana discussing the possible liability of a landlord for negligence *230 when a tenant's property is damaged or stolen under circumstances similar to those in the present case. What duty, if any, should be imposed on a landlord has been addressed by the courts of several states. While those decisions are not binding upon this Court, they are instructive.

[1] Many courts have abrogated or softened the common-law rule that a landlord is not under a duty to protect a tenant from loss or injury due to criminal conduct by a third party.

See Cutler v. Bd. of Regents (1984), Fla.App., [459 So.2d 413](#) (normally no duty by reason of landlord-tenant relationship, but landlord may assume duty to protect tenants from foreseeable criminal acts);

Razdan v. Parzen (1981), [157 Ga.App. 848, 278 S.E.2d 687](#) (general rule that independent criminal act of third person insulates original wrongdoer from finding of negligence inapplicable if original wrongdoer had reasonable grounds for apprehending criminal conduct, i.e., the criminal act was reasonably foreseeable);

Trentacost v. Brussel (1980) [82 N.J. 214, 412 A.2d 436](#) (landlord's failure to provide locks and evidence of criminal activity rendered mugging of tenant foreseeable result of landlord's negligence);

Stribling v. Chicago Housing Authority (1975), [34 Ill.App.3d 551, 340 N.E.2d 47](#) (plaintiff's complaint that housing authority allowed unrestricted access to vacant apartments adjoining plaintiff's apartment resulted in series of burglaries at plaintiff's apartment stated cause of action in that duty may exist if occurrence is reasonably foreseeable and there exists more than a mere possibility of the occurrence).

In *Morgan v. Dalton Management Co.* (1983), [117 Ill.App.3d 815, 73 Ill.Dec. 313, 316, 454 N.E.2d 57, 60](#) the court announced three considerations when determining whether a duty would exist: 1) the foreseeability of the injury,

2) the magnitude of the burden of guarding against the injury, and 3) the consequences of placing that burden upon the defendant. The considerations outlined in *Morgan* present a practical method of determining the existence of a duty by a landlord under circumstances similar to those in the present case.

[2][3] In this case the second burglary was reasonably foreseeable. The defendants had notice of the first burglary and the probable method of entry by use of a key. However, defendants claim that the consequences and magnitude of the burden to guard against another such occurrence were prohibitive. The defendants contend that terminating their employees' use of the master keys would completely disrupt if not halt their system of maintenance and repairs.

The record reflects that the defendants acknowledged that twelve of their employees and an unknown number of employees of a carpet cleaning company enjoyed the use of the master keys. Defendants ignore the possibility that access to master keys could be greatly restricted and monitored for the protection of the tenants. By allowing such a large group of persons unquestioned access to the master keys, the defendants effectively thwarted any attempt to determine who perpetrated the first burglary and to reduce the risk of further burglaries. Because the second and third considerations in determining the existence of a duty would not impede such a finding, the trial court correctly determined that a duty existed in the present case. Further, once the duty was established, the evidence supported a conclusion that the breach of that duty proximately caused the injury to Bowman.

[4] Next, the defendants question the sufficiency of the evidence to support the court's decision. It is well settled that this Court will not reweigh evidence or judge the credibility of witnesses. *Communication Wks., L. 5900 v. Bridgett* (1987), Ind.App., [512 N.E.2d 195, 200](#). Only the evidence and reasonable inferences therefrom which would support the verdict may be considered. *Bradford v. Bentonville Farm Supply* (1987), Ind.App., [510 N.E.2d 745, 747](#).

The evidence demonstrated that the police could not discover any method of forced entry into Bowman's second-floor apartment, but surmised that a key must *231 have been used. Bowman testified that she had not given her apartment key to anyone and that she always locked her doors. The defendants' employee testified that all maintenance workers had access to master keys and that Bowman had notified her of the first burglary and accused a specific maintenance worker of the crime. Other evidence established that a portion of Bowman's missing jewelry was discovered at a pawn shop where one of defendants' employees frequently sold jewelry. Additionally, police officers testified that other burglaries absent signs of forced entry had occurred at the apartment complex.

Defendants complain that other means of entry, such as picking the lock, may explain the burglary. Defendants' argument is speculative and not supported by the record.

The trial court based its judgment on sufficient evidence, and because no error has been established the trial court is affirmed.

Affirmed.

STATON and NEAL, JJ., concur.

526 N.E.2d 228

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