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LIA Draft: Rule Statement & Part Rule Explanation

**Rule Statement:**

Under New York law, the Implied Warranty of Habitability gives three standards and a condition: (1) the premises are fit for human habitation; (2) the premises are fit for the uses reasonably intended by the parties; (3) the occupants will not be subjected to conditions that are dangerous, hazardous or detrimental to their life, health, or safety. When any such condition has been caused by the misconduct of the tenant or lessee or persons under his direction or control, it shall not constitute a breach of such covenants and warranties. *Solow v. Wellner*, 658 N.E.2d 1005, 1008 (N.Y. 1995).

**Rule Explanation: Explanation of Second Consideration of Warranty: “The premises are fit for the uses reasonably intended by the parities.”**

The landlord’s failure to provide every amenity as expected will not breach the warranty; instead, the warranty requires only those deemed as essential to a residence. (see solow) This covenant of the warranty protects against conditions that do not render an apartment unsafe or uninhabitable, but prevent its use as intended. (*id~~.)~~* ~~See~~ *~~Solow v. Wellner~~*~~, 658 N.E.2d 1005, 1008 (N.Y. 1995) (finding the warranty not a guarantee of amenity, but of a protection from deficiencies that prevent premises from serving their function, e.g. an elevator in a high-rise building).~~ See also *Newkirk v. Scala*, 935 N.Y.S.2d 176, XXX (N.Y. App. Div. 2011) (finding foul smelling water made the premise unfit for uses reasonably intended by the parties).

**Unorganized Thoughts:**

The warranty imposes a high standard of care on landlords. Landlords can be found in breach for conditions outside of their control. See *McBride v. 218 E. 70th St. Assocs.*, 425 N.Y.S.2d 910, XXX (App. Term 1979) (finding landlord responsible to control flooding despite inability to control heavy rain and inadequate municipal sewer drainage).

Landlords must take reasonable action to protect safety of their tenants, see *Highview Assocs. v. Koferl*, 477 N.Y.S.2d 585, XXX (Dist. Ct. 1984) (landlord found in breach for doing nothing to prevent burglaries). Tenants must give landlord opportunity to improve conditions before undertaking it themselves if they wish to receive remedy for this action. See *Kekllas v. Saddy*, 389 N.Y.S.2d 756, XXX (Dist. Ct. 1976) (finding landlord in breach for strong odor, but not responsible for tenants cost of self-repair, as they did not give landlord opportunity to repair).

LIA Outline

* **Premises are fit for human habitation**
  + ~~This premise can be conflated into the 2nd promise.~~ *~~Solow v. Wellner (588-589~~)*
* **Premises are fit for reasonably intended uses**
  + *~~Newkirk v. Scala~~*~~: Water in apartment sells like “burnt rotting eggs”. Makes tenants nauseous, ruins clothes: bathe and eat elsewhere.~~
  + *~~Solow v~~*~~.~~ *~~Wellner~~*~~: reasonably intended uses does NOT include services and amenities reasonably expected. “Protects against conditions that, while they do not render unsafe, prevent the premises from serving their intended function of residential occupation. In this case of~~ *~~Solow~~*~~, an elevator counts.~~
    - ~~In Spraker’s case: The Jacuzzi Jets, carpet stains from pipe leak, clothes smelling (and dry-cleaning bills), would not be put Mr. Greco in breach of IWH.~~
  + ~~Spraker’s blown out windows prevent use of the room, as anything in it is blown out when the wind blows.~~
* **Premises do not subject occupants to conditions that are dangerous, hazardous, or detrimental to their life, health or safety.** 
  + *~~Highview Assocs v. Koferl~~*~~: Landlord must attempt to protect its tenants.~~
  + *~~Kekllas v. Saddy~~*~~: Cat urine has made living there detrimental to health. Tenant must give notice to landlord to give them reasonable time to repair.~~
  + *~~Park W. Mgmt. Corp. v. Mitchell~~*~~: Apartment worker strike led to build up of trash, and caused declaration of health emergency.~~
  + Spraker’s pipe leak had created mold with a musty odor. Mold can be hazardous.
  + Large open bay windows also present a falling danger in high rise apartment.
* **No Breach when misconduct of tenant or persons under tenant’s control.** 
  + ~~When the windows of Spraker’s apartment blew out, the wine glasses did not break, suggesting that there was no misconduct on behalf of Spraker to break windows.~~
* **Other**
  + *~~McBride v. 218~~*~~: Water floods lower level of apartment. Landlord is in breach even if does not directly impair the conditions or acted in bad faith. Still can be held in breach even if fixed after.~~
    - Greco can still be held responsible even if he had no knowledge of the window defects.

Sources (REVIEW FOR ACCURACY)

***Kekllas v. Saddy*, 389 N.Y.S.2d 756 (Dist. Ct. 1976).**

***Highview Assocs. v. Koferl*, 477 N.Y.S.2d 585 (Dist. Ct. 1984).**

*Newkirk v. Scala*, 935 N.Y.S.2d 176 (N.Y. App. Div. 2011).

*Solow v. Wellner*, 658 N.E.2d 1005 (N.Y. 1995).

*McBride v. 218 E. 70th St. Assocs.*, 425 N.Y.S.2d 910 (App. Term 1979).

*Park W. Mgmt. Corp. v. Mitchell*, 391 N.E.2d 1288 (N.Y. 1979).

Avoid parantheticals in RA

Structure:

Here (in this), x happened -> outcome was A

Similiarly -> this is like \_\_\_ case b/c \_\_\_\_ -> outcome should be A also

However, here, y happened instead -> this is different form \_\_\_ case because \_\_\_\_ -> outcome should be different from A