

**QUESTION 8 THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK III  
OR IN EXAMPLIFY ANSWER SCREEN 8**

Mary Smith lived with her two children in Sunnyview, Michigan in Apartment A owned by Landlord Inc. After a heavy rain, water leaked from Apartment A's ceiling, requiring repair. Smith and her children were granted permission to move into another apartment (rent free) in the same building, and Smith unilaterally stopped paying rent for Apartment A. Three months later, Smith and the children moved back into Apartment A. Eventually, Landlord Inc. asked for the past-due rent on Apartment A. Smith refused to pay on the basis that the apartment had mold and had been uninhabitable.

Landlord Inc. sued Smith in the district court for overdue rent and possession of the property. Landlord Inc. submitted proofs that it had provided rent-due bills to Smith for those three months, that Smith had failed to pay, and argued for the requested relief. For her part, Smith argued that mold existed in Apartment A, making it uninhabitable, which, in turn, relieved her of the responsibility of paying rent. After considering the evidence and arguments, the district court ruled that Smith owed the rent because although Apartment A was wet and dingy, there was no mold and it was not uninhabitable.

Smith, individually and as Next Friend for her children, subsequently sued Landlord Inc. in circuit court for negligence and premises liability. Specifically, Smith argued that she and her children suffered harm from the mold inside Apartment A. Landlord Inc. eventually moved to dismiss, arguing that Smith already lost her chance to litigate whether mold existed in Apartment A. Nonsense, argued Smith, as the district court case involved possession of property and overdue rent, and nothing more; and, her children were not part of the district court case.

**Applying Michigan law, explain:**

1. The issues raised by the parties' arguments.
2. Whether Landlord Inc.'s motion should be denied, including your reasons why or why not.

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