

A law student rented a furnished apartment. His landlord began to solicit his advice about her legal affairs, but he refused to provide it. The landlord then demanded that the student vacate the apartment immediately. The landlord also began engaging in a pattern of harassment, calling the student at home every evening and entering his apartment without his consent during times when he was at school. During these unauthorized visits, the landlord removed the handles from the bathroom and kitchen faucets, making the faucets unusable, but she did not touch any personal property belonging to the student. The lease has a year to run, and the student is still living in the apartment. The student has sued the landlord for trespass.

Is he likely to prevail?

- A. No, because he has no standing to sue for trespass.
- B. No, because the landlord caused no damage to his property.
- C. Yes, for compensatory damages only.
- D. Yes, for injunctive relief, compensatory damages, and punitive damages.

Explanation:

Types of remedies

Nominal damages	Trivial sum of money (eg, \$1) awarded to vindicate plaintiff's rights when no actual loss or damage occurs
Compensatory damages	Money awarded to compensate plaintiff for actual loss or damage (ie, actual damages)
Punitive damages	Money awarded to punish defendant for outrageous or evil conduct & to deter similar conduct in the future (ie, exemplary damages)
Injunctive relief	Court order commanding or prohibiting a specified action

For **trespass**, the plaintiff must prove that the defendant **intentionally entered** land in the plaintiff's possession **without** the plaintiff's **permission**. If the plaintiff does so, he/she may receive nominal damages or compensatory damages, as well as punitive damages and/or injunctive relief.

Here, the student can establish a claim for trespass because the landlord intentionally (and repeatedly) entered the student's apartment without his consent. Therefore, the student will likely recover:

compensatory damages – for the removal of the faucet handles

punitive damages – to punish the landlord for his malicious and evil pattern of harassment

injunctive relief – to stop the landlord's repeated and ongoing trespasses

However, *nominal damages are not recoverable* because the student suffered actual loss and damage (ie, he can recover compensatory damages).

(Choice A) A plaintiff has standing to sue for trespass if he/she has a *possessory interest*—the right to occupy or control property—in the land that the defendant intentionally entered. Here, even though the student does not own the apartment, he has a possessory interest in it (a lease). Therefore, he has standing to sue for trespass.

(Choice B) The landlord did damage the student's leased property by removing the faucet handles, rendering them inoperable. But even if no damage had occurred, the student could still prevail because trespass does not require proof of actual loss or damage. However, the student could not recover compensatory damages.

(Choice C) The student's recovery is not limited to compensatory damages because there is evidence to support punitive damages (landlord's malicious pattern of harassment) and injunctive relief (landlord's repeated and ongoing trespasses).

Educational objective:

Trespass is an intentional, unauthorized entry onto land in the plaintiff's possession (ie, land the plaintiff occupies or controls). The plaintiff can recover nominal damages (eg, \$1) for a *harmless* trespass or compensatory damages for a *harmful* trespass. Punitive damages and/or injunctive relief may also be available.

References

Restatement (Second) of Torts § 158 (Am. Law Inst. 1965) (trespass).

Restatement (Second) of Torts § 903 (Am. Law Inst. 1979) (compensatory damages).

Restatement (Second) of Torts § 907 (Am. Law Inst. 1979) (nominal damages).

Restatement (Second) of Torts § 908 (Am. Law Inst. 1979) (punitive damages).

Restatement (Second) of Torts § 945 (Am. Law Inst. 1979) (injunctive relief for recovery of land).

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