

Court Rules Damages Not Recoverable When Plaintiffs Left Home Due to Mold

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In *Mayer v. Chicago Mechanical Services, Inc., No. 2-09-0239*, the Appellate Court of Illinois, Second District, ruled that residents are not entitled to compensation for being forced to leave their homes due to mold.

One of the defendants, Chicago Mechanical Services, installed a heating and air conditioning system in a condominium unit occupied by two of the plaintiffs. The plaintiffs alleged that the heating and air conditioning system was defective and caused mold growth, which rendered the unit uninhabitable for an extended period of time. The plaintiffs claimed that they were entitled to compensation for the discomfort and inconvenience associated with being displaced from their homes.

The court ruled that the relief plaintiffs requested--damages for inconvenience and discomfort associated with temporary housing arrangements--were not recoverable as a matter of law:

"In essence, plaintiffs' theory of damages is rooted more in the sentimental attachment to their homes than in the tangible comforts and conveniences of living in those homes. At oral argument, plaintiffs' attorney contended that one's home is a unique environment for which there can be no substitute and that damages for discomfort and inconvenience are appropriate no matter how luxurious the alternative quarters might be. By virtue of this reasoning, one could seek recompense for displacement without regard to his or her actual living conditions. We cannot subscribe to such a sweeping view. The type of harm for which plaintiffs seek recovery is simply too nebulous to serve as a basis for an award of damages."

Under prior precedent, Illinois courts have allowed damages were the plaintiff suffered discomfort and inconvenience while they continued to occupy their property. However, the court in *Mayer* refused to extend this theory of damages to a case where plaintiffs sought compensation for inconvenience and discomfort resulting from being forced to leave their homes.

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