

SUPERIOR COURT
OF THE
STATE OF DELAWARE

WILLIAM C. CARPENTER, JR.
JUDGE

NEW CASTLE COUNTY COURTHOUSE
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January 16, 2013

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RE: Louis Demello v. Fengshan Liu
Civil Action No. N11C-08-037 WCC

Submitted: October 17, 2012
Decided: January 16, 2013

Defendant's Motion for Summary Judgment - DENIED

Dear Counsel:

The defendant has filed a Motion for Summary Judgment in the above-referenced case. The Court has held a hearing on the Motion and has again subsequently reviewed the submissions of the parties regarding the Motion. The plaintiff, a college student at the time, and several friends rented a property from the defendant at 98 East Park Place (98 East) in Newark, Delaware. The defendant owns this property as well as an adjacent property at 84 East Park Place (84 East) also in Newark. Behind 84 East, there is a shed that houses excess furniture and miscellaneous property of the defendant. It appears from the testimony given during discovery that tenants of both properties would be given

access to the shed to store excess furniture, mattresses and other property they did not want to keep in their rental properties. The shed was kept unlocked, but permission was only given to the tenants of the two properties to use or have access to the shed. On the day he moved into the rental property, the plaintiff was injured when he stepped on a nail in the shed.

The defendant argues that the plaintiff should be considered a guest without payment and his conduct, therefore, should be covered under Delaware Premises Guest Statute.¹ If this were the case, the defendant argues the matter should be dismissed since there is no evidence of either an intentional act by the defendant or one that was a willful and wanton disregard for the rights of others.

Under the facts of this case as provided to the Court at this time, the Court finds that the Delaware Premises Guest Statute is not applicable. The plaintiff's right to access the shed is conditioned upon his payment of rent to the defendant. As a result of being a renter, the defendant allowed the plaintiff to enter and use the shed to store furnishings not being used in the house or to obtain additional items to furnish the rental property. The Court does not find it significant that the plaintiff's name was not specifically listed on the lease agreement. The defendant, for unknown and suspicious reasons, allowed only two renters to sign the lease. However, the testimony indicates that the defendant was aware that there were multiple individuals living at the property, including the plaintiff, and all were allowed access to the shed.

As a result, the Motion for Summary Judgment is hereby DENIED.

IT IS SO ORDERED.

/s/ William C. Carpenter, Jr.
Judge William C. Carpenter, Jr.

WCCjr:twp

¹ No person who enters into private residential or farm premises owned or occupied by another person, either as a guest without payment or as a trespasser, shall have a cause of action against the owner or occupier of such premises for any injury or damages sustained by such person while on the premises unless such accident was intentional on the part of the owner or occupier or was caused by the willful or wanton disregard of the rights of others. 25 *Del. C.* § 1501.