

[Cite as *Snowden v. Ohio University*, 2003-Ohio-1121.]

IN THE COURT OF CLAIMS OF OHIO

KEVIN G. SNOWDEN	:	
1041 Amity Road	:	
Galloway, Ohio 43119	:	Case No. 2002-08360-AD
Plaintiff	:	MEMORANDUM DECISION
v.	:	
OHIO UNIVERSITY	:	
Defendant	:	

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For Defendant: John F. Burns
 Director of Legal Affairs
 Ohio University
 10 East Union Street
 Pilcher House
 Athens, Ohio 45701

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{¶1} On May 10, 2002, plaintiff, Kevin G. Snowden, a student attending defendant, Ohio University, and living in campus housing, left his dormitory room located at Ryors Hall. When plaintiff left at approximately 6:30 p.m., he locked the door to his dormitory room. Plaintiff returned to Ryors Hall several hours later and discovered his dormitory room door was open. Plaintiff indicated he made a cursory examination of his room, but did not notice anything missing. He then went to bed. After awakening the next morning plaintiff realized several items of his personal property had been stolen from the room. Specifically, plaintiff asserted his hand held computer, game station/DVD player, electronic memory card, electronic accessory controller, three computer games, a jar, and \$40.00 in coins comprised the stolen property. University

police were contacted, conducted a preliminary investigation, and have continued to investigate the incident. However, none of plaintiff's property items were recovered. Plaintiff has assumed defendant is liable for his property loss and he has consequently filed this complaint seeking to recover \$1,064.96, the total stated replacement value of all the stolen articles. Plaintiff acknowledged some insurance coverage exists for partial reimbursement for property loss due to theft.

{¶2} Plaintiff has essentially contended defendant was negligent in failing to provide adequate security to prevent intruders from gaining easy access to his dormitory room and the room's contents. Specifically, plaintiff has argued defendant was negligent; installing a substandard door lock which could be easily opened with a plastic card. Plaintiff has also suggested defendant's law enforcement agents were negligent in investigating the theft and negligent in failing to take measures leading to the recovery of the stolen property.

{¶3} In order to prevail on his claim of negligence, plaintiff must establish a duty owed by defendant and a breach of that duty which proximately results in an injury. *Jeffers v. Olexo* (1989), 43 Ohio St. 3d 140. Generally, landlords have no duty to protect their tenants from the criminal acts of third persons. *Thomas v. Hart Realty, Inc.* (1984), 17 Ohio App. 3d 83; *Sciascia v. Riverpark Apts.* (1981), 3 Ohio App. 3d 164. In the instant claim, defendant, as landlord of University dormitories, has "a duty to take those steps which are within [its] power to minimize the predictable risk to [its] tenants." *Doe v. Flair Corp.* (1998), 129 Ohio App. 3d 739, 750, quoting, *Kline v. 1500 Massachusetts Avenue Apartment Corp.* (C.A., D.C. 1970), 439 F. 2d 477. "While the landlord has some duty to provide secure common areas in an apartment complex, he is not an insurer of the premises against criminal activity. The duty on the landlord is only to take some reasonable precautions to provide reasonable security." *Carmichael v.*

Colonial Square Apts. (1987), 38 Ohio App. 3d 131 syllabus.

{¶4} For liability to attach against defendant on a negligence theory based on the criminal act of a third party, plaintiff must demonstrate defendant should have reasonably foreseen the criminal act and failed to take reasonable precautions to prevent such acts.

Furthermore, it must be shown this failure to take precautions was the proximate cause of plaintiff's harm. *Reitz v. May Co. Dept. Stores* (1990), 66 Ohio App. 3d 188. Foreseeability is predicated upon whether a reasonably prudent person would have anticipated that damage was likely to result from the performance or nonperformance of the act. *Menifee v. Ohio Welding Products, Inc.* (1984), 15 Ohio St. 3d 75; *Eagle v. Matthews-Click-Bauman, Inc.* (1995), 104 Ohio App. 3d 792. The duty to protect a person such as plaintiff from the criminal acts of third parties arises when defendant knows or should know that there is a substantial risk of harm to persons on the parts of its premises in which it has control. *Simpson v. Big Bear Stores Co.* (1995), 73 Ohio St. 3d 130, syllabus. The foreseeability of criminal acts occurring on premises is determined by using a totality of the circumstances test. *Reitz, supra.* The totality of the circumstances must be "somewhat overwhelming" before a criminal act will be considered foreseeable. *Id.* 194.

{¶5} In the instant claim, plaintiff has not provided evidence to indicate defendant was on notice of criminal activity at Ryors Hall. Plaintiff did not establish any basis for foreseeability such as prior acts. Therefore, the court concludes plaintiff has failed to prove the theft of property from his dormitory room was foreseeable.

{¶6} Furthermore, plaintiff has failed to offer sufficient evidence to establish defendant was negligent in installing the type of locks used on Ryors Hall room doors. Plaintiff has failed to prove defendant breached any duty of care to provide security against theft offenses. Additionally, plaintiff has not proven in

what manner entry to his dormitory room was achieved. Plaintiff cannot produce evidence to show what devices, if any, were used to pick the dormitory room door lock. The fact locks for doors were provided is an act sufficient to discharge any duty to provide security.

{¶7} Plaintiff has also failed to establish any actionable criteria under which defendant may be held liable for property loss when conducting a theft offense investigation. In fact, plaintiff has not shown defendant improperly conducted an investigation regarding the theft of plaintiff's property. Plaintiff has not supplied any set of circumstances indicating liability. Plaintiff's claim is denied.

{¶8} Having considered all the evidence in the claim file and adopting the memorandum decision concurrently herewith;

{¶9} IT IS ORDERED THAT:

{¶10} 1) Plaintiff's claim is DENIED and judgment is rendered in favor of defendant;

{¶11} 2) The court shall absorb the court costs of this case in excess of the filing fee.

DANIEL R. BORCHERT
Deputy Clerk