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## **Landlord to pay renters \$300,000**

### **Apartment called unfit for habitation, but woman's deposit wasn't returned**

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One of Milwaukee's most notorious landlords has agreed to put \$300,000 into a fund to repay tenants who paid rent or lost security deposits on properties that had undisclosed building code violations.

Timothy J. Brophy Jr. has agreed to the payment to settle a class-action lawsuit brought against him in March 2006 by a woman to whom he rented a property that was posted as "unfit for human habitation." The settlement, however, covers all individuals who paid security deposits or made rent payments to Brophy from March 20, 2000, to May 15, 2007.

That could include hundreds of people, said Douglas Dehler, attorney for Jessica K. Wineberg, who brought the case.

"This is the first time I've seen a class-action lawsuit of this type for a Milwaukee landlord," said Todd Weiler, a spokesman for the city's Department of Neighborhood Services. "I've been here 21 years, and he (Brophy) is the highest fined landlord on our books. All of this is breaking new ground."

According to court papers, Brophy failed to respond in time to the complaint, so a default judgment was entered against him in September.

"This should never have happened," said Thomas J. Nitschke, an attorney who said he represented Brophy only on the settlement. He said two other attorneys had previously represented the landlord.

It's never been a requirement of the law to notify people about code violations unless the code violations make a property uninhabitable, Nitschke said. "The only person this occurred to is Ms. Wineberg because the manager gave her the wrong key," he said.

"This is a great settlement based on the facts and the way things came down," he said, adding that total damages of \$6.2 million had been sought in the case.

According to the complaint, in November 2004 Wineberg signed a lease with Brophy for an apartment at 2563 N. Bremen St., but was never notified that there were multiple uncorrected building and housing code violations on the property dating to June 2004. She paid him \$450 for the first month's rent and a \$450 security deposit, the complaint states.

Shortly after Wineberg moved in, the City of Milwaukee posted a notice on the property saying there were outstanding building code violations and that the property was "unfit for human habitation."

The notice said Wineberg had to vacate the property and that failure to do so would bring a fine of \$150 to \$5,000 a day.

Wineberg notified Brophy that she intended to vacate the apartment and asked for her security deposit back. Brophy did not return it or explain why it was not returned within 21 days, the complaint states.

She claimed in the suit that Brophy "acted maliciously and intentionally disregarded her rights" and those of others.

When the case was certified as a class action, it opened the door for others to try to collect a share of the settlement.

The distribution of damages will be contingent on, among other things, the collection of damages from Brophy, Dehler said. A final approval hearing is scheduled for 9 a.m. on July 30 before Circuit Judge David A. Hansher.

Between March 2000 and March 2007, the city issued more than 1,000 orders for nearly 5,000 violations on properties owned by Brophy, according to Tracy Williams, operations manager for the Department of Neighborhood Services.

Since 2000, Brophy has been fined approximately \$350,000 by the city, she said. He owes the city \$101,000, she said.

Weiler said Friday afternoon that Brophy had missed a \$30,000 payment .

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