

Copy

IN THE CIRCUIT COURT OF BRADLEY COUNTY, TENNESSEE

LILLIE WALKER,

Plaintiff,

vs.

COLLEGETOWN MOBILE ESTATES, INC.

Defendant.

*
*
*
*
*
*
*
*

No: V-05-817

FILED
2007 JAN -8 PM 12:00
GAYLA H. MILLER
CIRCUIT COURT CLERK

AMENDED ANSWER TO AMENDED COMPLAINT

Comes your Defendant, Collegetown Mobile Estates, Inc. ("Collegetown"), by and through their undersigned attorneys, GOINS, CARPENTER & JAMES, and pursuant to Rule 15 of the Tennessee Rules of Civil Procedure, hereby amends its Answer to Plaintiff's, [Lillie Walker's ("Walker")], Amended Complaint as follows:

I.

Collegetown hereby incorporates its original Answer, filed herein on November 9, 2005, and its Answer to Amended Complaint filed herein on January 20, 2006, in full as though specifically restated within the text of this Amended Answer to Amended Complaint.

II.

Collegetown hereby admits ownership of the premises in question; however, said premises had been leased for use by Walker's daughter, Linda Morgan. Further, the lease agreement voluntarily entered into between Collegetown and Ms. Morgan regarding the premises at issue provided for contractually binding terms incorporated by reference therein that completely bar Walker from any recovery for damages against Collegetown in this cause. Any theory of liability concerning the premises in question should be advanced by Walker solely against her daughter, Linda Morgan. Morgan has breached her duty of care and is negligent in failing to appropriately maintain, inspect and repair the premises in question. The sole cause of the plaintiff's injury is the negligence of Morgan.

III.

By virtue of the lease agreement, common law, and the law of negligence, Walker's daughter, Linda Morgan, had a duty to reasonably inspect the premises in question and an obligation to report any defective and/or dangerous conditions in existence to Collegetown for repair, replacement and/or necessary maintenance. Moreover, Morgan had a duty to

Walker to report or repair any condition on the premises to avoid any injury to Walker resulting from any defect in the property of which Walker had either actual or constructive notice. Additionally Walker's daughter, Linda Morgan, had a duty to inspect the premises in question and an obligation to either report or repair any dangerous condition within the premises prior to or after allowing Walker to live in the premises in question. Accordingly, any theory of negligence, either pending or contemplated by Walker, should be advanced solely against Linda Morgan as Morgan had the duty to inspect, maintain, and repair the premises in question, or to reasonably report any defective condition for repair or correction. Said duty exists at both common law and by contract. As such, Walker's daughter, Linda Morgan, is an indispensable party to this cause pursuant to the Tennessee Rules of Civil Procedure. Due to the failure of the plaintiff to join an indispensable party, the complaint herein should be dismissed against the defendant.

WHEREFORE, Collegetown prays this Honorable Court dismiss Walker's Amended Complaint against it, assessing all costs against Walker. Barring said dismissal Collegetown requests a jury to try the issues contained in the answer and amended answer to the complaint.

Respectfully Submitted,

GOINS, CARPENTER & JAMES



STUART F. JAMES, BPR#013841

S. TODD HASTEY, BPR #22835

Attorneys for the Defendant, Collegetown Mobile Estates, Inc.

736 Cherry Street

Third Floor, Heritage Center

Chattanooga, TN 37402

(423) 756-3646

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and exact copy of this pleading has been served upon the below named parties by placing a true and exact copy of said pleading in the United States Mail, addressed to said parties at their below listed address, with sufficient postage thereupon to carry the same to its destination.

McMahan Law Firm
James R. Kennamer BPR#16172
323 High Street
Chattanooga, TN 37403
(423) 265-1100

This 5th day of January 2007.

J. Todd Hasty
GOINS, CARPENTER & JAMES