

Housing Conditions Calendar creates a new forum for tenants.

By Zoe Tillman

Amy Dillard suspects carbon monoxide is leaking from her stove. Electrical problems left Verena Dunn with hundreds of dollars' worth of spoiled food. Richard Langley's apartment flooded every time it rained.

Until last spring, when the Housing Conditions Calendar opened as a new forum for tenant complaints in District of Columbia Superior Court, Dillard, Dunn, Langley and the more than 300,000 other renters in Washington had few legal remedies if landlords failed to make repairs, according to tenant advocates.



D.C. Superior Court Judge Melvin Wright
Photos by: Diego M. Radzinski / NLJ

Filing a civil action to have a stove fixed or an insect infestation taken care of wasn't an option for many local tenants, given the time and cost typically required. City administrative offices lacked enforcement teeth, and only landlords could sue in the Superior Court's landlord and tenant branch.

Superior Court Judge Melvin Wright, the presiding Civil Division judge, said a common legal strategy was to withhold rent, get sued by a landlord in landlord and tenant branch, and then claim housing code violations as a defense. It was a risky bet — if tenants lost their cases, they could lose their homes.

"There was a lot of desire on the part of tenants to have a forum," Wright said.

Dillard, Dunn and Langley's requests for injunctive relief for housing code violations are among the 262 cases filed in the Housing Conditions Calendar since April 2010. Filing costs \$15, compared with \$120 to file a civil action, and Wright hears cases every Monday with a housing inspector at his side to schedule site visits as needed.

Word is spreading. When the program began, Wright said he would hear a handful of cases each week; on June 27, when Dillard and Dunn appeared, he presided over 26 cases, six of which were new.

Cases are limited to addressing housing code violations. Tenants seeking monetary damages or landlords looking to collect unpaid rent have to do it elsewhere.

"It's very 'roll up your sleeves and get the job done,'" said Vytas Vergeer, legal director at local nonprofit Bread for the City, which works with tenants.



Bread for the City legal director Vytas Vergeer

Tenants, landlords and their attorneys say the court is fair and effective most, but not all, of the time.

Some tenant advocates worry that keeping the landlord and tenant branch separate from the Housing Conditions Calendar is confusing and draws out the resolution of complex disputes. Landlords and their attorneys complain that tenants already have multiple avenues to bring complaints, and that the new court allows tenants to drive up legal costs by filing unnecessary actions.

More than a year in, Wright is still making adjustments, but said he believes the program is fulfilling its purpose. It's a "fix-it court," not a fix-all solution, he said. "Sometimes we try to make things more complicated than they need to be," Wright said. "We do one thing, and we try to do one thing well."

TENANT RIGHTS

Tenant advocates had been pushing for a forum for years, according to Vergeer. The District of Columbia Council introduced legislation in early 2009 that would allow tenants to bring suits in the landlord and tenant branch.

Julie Becker, supervising attorney with the Legal Aid Society of the District of Columbia, said Legal Aid and other nonprofits that work with tenants were in favor of keeping disputes in one place. "There is so much overlap," she said. "The parties are the same, the attorneys are the same, and a lot of the issues are the same."

Wright and other judges didn't see it that way. The landlord and tenant branch handles about 45,000 cases annually, Wright said, so including tenant-initiated suits would add stress to a court that is already "busting at the seams." There was also concern that the city's Home Rule Charter barred the council from legislating court operations.

Taking a cue from the successes of targeted "problem-solving courts," like Drug Court and Fathering Court, Superior Court Chief Judge Lee Satterfield appointed Wright to lead a committee of tenant and landlord representatives, including attorneys, to come up with a solution for tenants. The 2009 council bill never moved forward.

Veteran landlord attorney Stephen Hessler, a Washington solo practitioner who sat on the committee, said he believes that once the council got involved, the court had little choice but to take action if it wanted input on the shape and scope of the program. Hessler said tenants already have more forums to bring complaints than landlords, but the idea of a separate court gained traction and became a political necessity. "Judge Wright is doing an absolutely stellar job, but the court is absolutely unnecessary," he said.



Attorney Stephen Hessler

CIVIL PROCEEDINGS

The program is designed to get tenants into court as soon as possible. The complaint form features a one-page checklist of possible violations; tenants should be able to fill it out and argue their case without a lawyer, Wright said. More than 80% of cases are resolved within 90 days.

Dillard, the tenant who suspects her stove is leaking carbon monoxide, came before Wright on June 27. She said she would have liked to have a lawyer look over her paperwork, but didn't think she could afford it. The city's Office of the Tenant Advocate is in talks with Wright about a partnership to assist tenants as they file or if they need representation, according to lead attorney Dennis Taylor.

The court follows civil proceeding rules, but program-specific policies are often informal and still being tweaked. For instance, Wright decided that tenants can't pursue a case if there is already a pending matter in the landlord and tenant branch.

Vergeer is concerned that the policy sparks a "race to the courthouse," where tenants and landlords try to file first in their respective forums.

Speaking on a District of Columbia Bar panel June 29 about the court, Wright also fielded questions about how decisions in the Housing Conditions Calendar might affect proceedings in the landlord and tenant branch, and vice versa. He said those issues would be worked out as they come up.

One element that has gotten rave reviews from both sides is the presence of a housing inspector. Since January, District of Columbia Consumer and Regulatory Affairs inspector Ferdinand Gamboa has served as Wright's right-hand man, ready to read reports from previous visits or schedule new ones.

Aaron Sokolow, an attorney at the Law Offices of Morris Battino in Washington, regularly represents landlords. He said his clients see Gamboa as a "neutral third party," which adds to their perception that the court is not biased in favor of tenants.

Enforcement is another area tenants and their lawyers say could use work; Becker recalled one case where a client had to go to court 11 times before all repairs were made. Wright said almost all landlords come to court eventually and get the job done, but it can take time to get them there. "It's not ideal by any stretch of the imagination," Vergeer said, but Wright is "doing his best."