

Landlord (Lessor) Duties/Standards of Care

- I. Traditional Rule and its Exceptions:
 - A. Landlords owe no duty at all to their own tenants and the tenant's guests (and thus no duty to trespassers either). A landlord is treated as having no ties to premises.
 - B. Exceptions which impose a duty to tenants and the tenant's guests, and which set the standard of care to reasonable care:
 - 1. If the landlord has contracted to repair defects, and landlord learns about the defect;
 - 2. If the landlord knows that a defect exists at the time the tenant takes possession, and the tenant does not know nor would a reasonable person know of the defect;
 - 3. If the premises are specifically leased for public use;
 - 4. If the premises are retained in the landlord's control;
 - 5. If the landlord repairs something on the premises, regardless of whether there is a contract requiring it.

- II. Discarding the Traditional Rule and its Exceptions:

- A. Landlords owe a duty to their tenants and the tenant's guests, and the standard of care is reasonable care. Landlords still owe no duty whatsoever to trespassers.

The Nonfeasance No-Duty Rule (aka No-Duty-to-Act or No-Duty-to-Rescue)

- I. Traditionally, if the ∂ 's conduct can be characterized properly as "nonfeasance"—*i.e.*, failing to act—then that means the defendant owes no duty to the π and thus cannot be liable. This is the major "no-duty rule." Modern reformulation: did the ∂ *create* a risk of harm that would otherwise have *not* been there? If not, then the ∂ owes no duty to π .
- II. Exceptions or qualifications which impose a duty (some of the below can be characterized not as an exception but as "misfeasance"):
 - A. ∂ knows or should know that her conduct, whether innocent or wrongful, has already caused some prior harm to π
 - B. Statute imposes a duty
 - C. ∂ begins to assist or care for π
 - D. While ∂ and π are in a special relationship:
 - 1. Land possessor—all entrants
 - 2. Landlord—tenants and the tenant's guests only, unless the traditional rule for landlords above applies and no exceptions to that traditional rule apply
 - 3. School—students at school or engaged in school activities
 - 4. Custodian—wards (e.g., parent—child)
 - 5. Employer—employees while at work
 - 6. Common-carrier—passengers
 - 7. Innkeeper—guest
 - E. ∂ has made certain promises