

Infant burned after rolling against exposed baseboard heater

\$4.25 million settlement

In May 2019, an 8-month-old girl fell onto an unprotected baseboard heating unit in a Massachusetts apartment and suffered third-degree burns on her left leg, arm and face. Her parents previously provided notice to the landlord/property manager of the unprotected baseboard heater, noting the dangerous condition in the initial lease agreement in 2017 so that it could be repaired.

However, the landlord never properly fixed the heater despite numerous calls from the infant's parents complaining about ongoing problems with the heat in the bedroom. As a result, a pipe carrying extremely hot water remained exposed due to an ill-fitting metal cover.

On the day of the accident, the infant had difficulty breathing due to a viral infection, and to help her breathe her parents propped her up on a bed instead of placing her in a crib. The bed was positioned right next to the heating unit.

While her father was napping in another room and her mother was at work, the infant rolled off the bed and became wedged between the wall and bed directly on top of the exposed hot water pipe. She suffered severe burns.

The girl has undergone numerous surgeries to repair severe scarring and will continue to have skin grafts as she grows and matures. The landlord

claimed the heater was repaired shortly after initial notice of its condition was received and argued that the plaintiffs never made any complaints about the baseboard for the two years prior to the incident.

The plaintiffs retained a building code expert who, after inspecting the baseboard, was prepared to testify that the baseboard cover never could have been attached properly as configured.

The defendants intended to blame the parents for leaving the infant unattended on a bed directly next to the heater they claimed was unprotected and unsafe. They also emphasized that the father should have heard the baby crying because he was in the next room and should have rescued her before she became severely burned.

The plaintiffs hired a life care planner and economist.

The case settled at mediation one year after the lawsuit was filed.

Action: Premises liability/landlord and tenant

Injuries alleged: Pain and suffering, infliction of emotional distress

Case name: Withheld

Court/case no.: Withheld

Jury and/or judge: N/A (mediated)

Amount: \$4.25 million

Date: January 2021

Attorneys: Jeffrey N. Catalano, Lisa M. Conserve and Christine R. Thompson, of Todd & Weld, Boston (for the plaintiff)

