

BRIDGING DIVIDES

Massachusetts Tenant's Action to Fix Bad Housing Conditions Leads to Eviction

What We Can Learn from the SJC's Ruling

By **Nedhi Teixeira**, MLPB Law & Policy Consultant

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Poor housing conditions lead to poor health conditions

Imagine going to court to seek help for a pest infestation in your apartment and realizing you are being evicted instead! Unfortunately, the Massachusetts Supreme Judicial Court – the highest court in Massachusetts – has recently determined that this is possible. The evidence is clear that housing and health go hand in hand – [poor housing conditions lead to poor health](#). Massachusetts has a Sanitary Code to provide regulations for safe and habitable housing and Housing Courts are invested with the power to ensure that landlords comply with that code. However, it can be challenging for tenants to enforce their rights to healthy housing.

What happened in the case of *Jason Dacey v. Sandy Burgess*

Jason Dacey, a disabled single parent of three children who suffered from depression and bipolar disorder, lived in an apartment in Haverhill, MA where he encountered an issue with bedbugs. When his landlord failed to address the problem, he sought relief from the Northeast Housing Court. Usually, tenants go to court as a last resort to get an order to force the landlord to fix the conditions. The process requires the tenant to file a civil complaint requesting an injunction – an order telling the landlord they must fix the bad condition immediately. At court, Dacey and his landlord's attorney entered into mediation, a regularly utilized process in the Housing Courts to resolve landlord tenant disputes before a trial. At that time, Dacey did not have an attorney, while his landlord was represented by counsel. Mediation concluded with an agreement between Dacey and his landlord stipulating, among other things, that Dacey would move out of the apartment by a specific date. Rather than getting the Housing Court to issue a judgment ordering the landlord to make repairs, he instead left with an order requiring him to leave his apartment.

Dacey appealed the Northeast Housing Court's judgment, and the [Massachusetts Supreme Judicial Court heard the case](#). Before the [decision in Dacey](#), landlords have been required to file a specific petition called a "summary process" case to seek to evict their tenant. The summary process statute requires that a court issue an execution – a document ordering the tenant to leave the premises – prior to a tenant being evicted. The SJC had to decide if Dacey could still be evicted in these specific circumstances through a housing court mediation process that occurred not in the context of a summary process proceeding, but in a Civil Relief injunction action filed by the tenant.

Health equity considerations for the Commonwealth

MLPB submitted an [Amicus letter](#) to the Supreme Judicial Court in support of Dacey outlining the health impacts of this case on the Commonwealth's renter population. MLPB highlighted that this case exemplifies the power dynamic in eviction cases where a majority of landlords are represented by attorneys while most tenants are not, and it reinforces the choice tenants facing poor housing conditions are forced to make when the systems in place to help them fail – to remain in unhealthy housing or to be homeless. These circumstances are even more greatly felt by communities of color and low-income households – data shows that [exposure to poor housing conditions](#) and [evictions disproportionately impact communities of color](#). While problems with occupied units – the oldest housing stock in the nation – exist across the Commonwealth, the [response of certain inspectional services departments can be slow](#) to rectify the issues.

What we can learn from the *Dacey* case

Sadly, on February 16, 2023, the SJC issued an order agreeing with the Northeast Housing Court's decision to enforce the agreement Dacey and his landlord entered, and to ultimately evict Dacey. In that order they also stated that Dacey did not provide evidence that he properly alerted the court of his disability, which would reflect his inability to enter into the agreement. The SJC further clarified that the courts must provide a reasonable accommodation to an individual entering into an agreement who has a disability effecting their capacity to enter that agreement but only when the individual properly alerts the court (with medical evidence) – resulting in the net decision adding to the burdens of tenants seeking relief in Massachusetts courts.

Although Dacey did not receive the outcome he expected, this decision provides some important takeaways for tenants and tenant's advocates in Massachusetts:

- In Massachusetts courts, it is possible to receive an outcome of eviction in an action requesting the court to order landlord to fix bad conditions.
- Tenants should *always* read and review agreements carefully before signing and agreeing to any terms.
- Tenants can consult with an attorney before signing any agreements. They have a right to seek counsel at any point in the mediation or court process.
- If a tenant has a disability which impacts their ability to enter into an agreement at any time, they should unequivocally alert the court during the proceedings with presentation of medical evidence.