

A Simple Eviction Case

by Anthony J. Mohr

The tenants and the landlord shared common features. Bodies that stood straight once but, in the sixth decade of their lives, had begun to arc. Deep lines crisscrossed their faces. They—we call them “the parties”—represented themselves. And we needed interpreters. Spanish for the tenants, Mandarin for the landlord.

The tenants: I bet the husband rose at sunrise in order to arrive at the foundry on schedule. His wife took a bus in the opposite direction and rode for an hour to the six-bedroom house she had to clean. I stopped myself. I had to focus on what I knew.

The landlord: He was a big man, rotund with a bulbous nose and an unsteady voice. I shouldn't have let him say he'd immigrated to this country a generation before his tenants, which gave him years to save for the duplex where they lived—the tenants on the ground floor unit, the landlord upstairs. Recently his wife died. My guess is he spent weekends tending the plants, changing the outside light bulbs, scrubbing the walkway... I stopped myself. I had to focus on the testimony, which was what I knew.

Me: For over two decades, a judge. Not much hair left, creases across my forehead, and a resting expression some would call a scowl—unless I'm smiling, which a few claim I do too often. Wearing my black robe doesn't bore me yet.

The tenants paid their rent late, the landlord said, triggering a “three-day notice to pay rent or quit,” a legal warning that if they didn't hand over what they owed in three days, he'd evict them. He had that right even if the tenants paid at one minute past midnight on the morning of the fourth day. The notice's wording cleaved to each detail the law required. Had it not done so, I'd have to dismiss the case. I wondered if somebody helped the landlord prepare his notice, then stopped myself. The answer was irrelevant.

The tenants had no bank account. For six years they'd paid with money orders made out to cash and purchased at the post office. The landlord gave them receipts,

which, before stopping myself, I imagined them tucking into a corner of their top dresser drawer.

The landlord said his tenants paid, but not within three days and not before blurting out that he needed the rent to cover the mortgage payments. Without it, he'd lose the building. I struck that last clause from my mind. It was as extraneous as my knowledge that following an eviction, the landlord could raise the rent to any amount he wanted. Or my assumption that over the past six years, his costs must have gone up—maintenance, insurance, repairs.

Controlling my thoughts was not easy because, like most people, I tend to speculate. And while I may be a judge, like most people, I have feelings, which were starting to bubble up. The landlord sounded friendly. I liked him and felt sorry he'd lost his wife.

Here's what the tenants said: At 6 p.m. on the final day the rent was due, the husband's employer, about to go out of business, paid his salary, in cash. They ate dinner as soon as the husband arrived home. Following their meal, the tenants said they handed the cash to the landlord. It was late; they were tired; they'd neglected to ask for a receipt.

Here's what the landlord said as he waved his hands: "No. That never happened." I imagined the landlord stashing his rent money into a bottom drawer or the back of his refrigerator, then, maybe the next day, peeling off a few of his tenants' dollars and going to the market to buy himself a precooked chicken for dinner. I stopped myself. It was time for our morning recess.

My clerk trailed me into chambers. As he laid pleadings from another case on my work table, he said, "Judge, I don't like this landlord. Did you know he—"

I raised my arm, palm facing him. What my staff thought had nothing to do with the case. In fact, seeking their input could violate California's Code of Judicial Ethics.

"Oh, right," said my clerk, his face full of apology. We'd worked together for several years, but I had to keep the boundaries firm.

In the quiet of my chambers, I imagined: The husband shambling into the apartment, his wife asking, in a thin but loving voice, if he was hungry, and after he nods, placing food on the kitchen table. Chicken, maybe. I stopped myself. The question

on the table was: Did the tenants pay their rent within three days of the notice? They said they did. The landlord said they didn't.

I, too, had received a notice to pay rent or quit—in 1973. I was six months out of law school.

“Life's tough,” said the manager of my West L.A. complex when I asked for two more days because cash was a little short, which it was. My clerkship with a judge paid less than big law firms. The holiday season had been costly, and—I admit—I'd treated myself to a weekend in New York, my gift to me for passing the bar exam. I had to take off from work to drive to the bank, withdraw money from my savings account, and—with an hour to go—drop a certified rent check down the slot.

I shook my head. My remembrance had nothing to with the case.

Whom would I harm? If I believed the landlord, the sheriff would lock out the tenants in a few days. If I believed the tenants, the landlord would have to keep living with people he didn't like. I stopped myself. It was wrong to consider the consequences of my decision. I had to focus on the law, the law I was grateful for because, as in every case, it served as my guide, even though the law could be cruel.

Not for the first time in my career, I wished one of the sides—the parties—had demanded a jury, freeing me from the duty to choose the word of one person over another's. That the governor appointed me to the court didn't provide me with any more insight—“perspicacity,” as one of our veteran judges put it—than I had as a lawyer.

Fifteen minutes later I returned to my bench.

I had a fifty-fifty chance of being right. But judges don't play odds. We decide. The law says so, right there in the California codes. “A judge has a duty to decide any proceeding in which he or she is not disqualified.”

They call a trial a search for the truth. The truth? I couldn't tell who'd told it. Fortunately, the law offers a pathway out of this dilemma. It's called the burden of proof. As plaintiff the landlord has the burden to prove his case, meaning he has to prove it's “more likely to be true than not true” that his tenants failed to pay on time. If you don't know who's right, the person—the party—with the burden of proof loses.

All three parties stared at me—we call it “the look”—normal while people wait for

a judge to rule. I used to flinch when, new to the bench, I witnessed “the look,” but as the months passed it stopped worrying me. Some colleagues told me “the look” made them sense their authority. Judges do wield power, I guess. But no sense of power materialized as I announced my decision. I felt vulnerable. I’d taken an oath to serve the people of the state of California. Was I serving them if I believed the wrong person?

I let the tenants stay. Their tears didn’t make me happy nor did the landlord’s hangdog look.

Before he left for the day, the bailiff knocked on my chambers door. He was husky enough to pass as a football star, with eyebrows so thick they almost met above his nose, distracting me from focusing on his shaved head.

“You did the right thing, Boss,” he said. “The poor guy lost his job. Where would they go?”

I nodded. My bailiff hadn’t crossed a boundary since I’d already ruled, but I wanted to be careful. That’s not why the tenants won. The tenants won thanks to my ignorance of the truth. The tenants won because the law steered me to the right result even if they’d lied.

My wife made chicken for dinner. We talked about the day before watching a good movie on Netflix, with our Lhasa Apso snuggled between us. By ten we crawled into bed. I slept well. There’s something magic about a night spent safely at home.



Anthony J. Mohr’s work has appeared in, among other places, *Brevity’s blog*, *Cleaver*, *Commonweal*, *DIAGRAM*, *Eclectica*, *Hippocampus Magazine*, *North Dakota Quarterly*, *Superstition Review*, *ZYZZYVA*, and several anthologies. He has been nominated for the Pushcart Prize five times. For almost twenty-seven years, he has sat as a judge on the Superior Court of California, County of Los Angeles.