

NONPRECEDENTIAL DISPOSITION

To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals**For the Seventh Circuit
Chicago, Illinois 60604**

Submitted March 22, 2023*

Decided March 23, 2023

BeforeMICHAEL Y. SCUDDER, *Circuit Judge*THOMAS L. KIRSCH II, *Circuit Judge*DORIS L. PRYOR, *Circuit Judge*

No. 22-2747

TONY CHANEY,
*Plaintiff-Appellant,**v.*EXTRA SPACE STORAGE, INC.,
*Defendant-Appellee.*Appeal from the United States District
Court for the Northern District of Illinois,
Eastern Division.

No. 19-cv-05858

Martha M. Pacold,
*Judge.***ORDER**

Tony Chaney rented storage space through an agreement that generally relieved the storage company of liability for losses from theft and rodents. After experiencing such losses, and the denial of access to a toilet, Chaney sued the company, Extra Space Storage, Inc., for damages. The district court dismissed the case for failure to state a

* We have agreed to decide the case without oral argument because the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C).

claim. Because the agreement relieves Extra Space of liability for Chaney's losses, and the laws he invokes do not provide for damages regarding the toilet, we affirm.

We accept Chaney's allegations as true and draw all reasonable inferences in his favor. *Taylor v. JPMorgan Chase Bank, N.A.*, 958 F.3d 556, 562 (7th Cir. 2020). Chaney, a disabled African American, rented a storage unit from Extra Space in Chicago, Illinois. Because his rental contract is critical to his complaint and referred to in it, and Chaney does not contest the validity of the copy of the contract in the record, we may consider it. *See Geinosky v. City of Chicago*, 675 F.3d 743, 745 n.1 (7th Cir. 2012). Under the contract, Chaney stipulated that Extra Space "shall not be liable ... for any damage" to his property "from any cause whatsoever, including ... theft, ... rodents, ... or failure to act ... except for damage or loss resulting from ... fraud, gross negligence or willful violation of law." Chaney agreed to "maintain" insurance for his property or bear "all risk of loss." He also agreed that Extra Space "[d]oes not provide insurance" and he could seek insurance from his own agent or a company listed in the contract.

Chaney was dissatisfied with Extra Space. The facility, he says, was infested with rodents; it did not aim any security monitors at his unit, which was burglarized; its manager failed to help police investigate the burglaries; and it denied him the use of a toilet at the facility.

He sued Extra Space in state court over these issues, and Extra Space removed the suit to federal court under diversity jurisdiction, 28 U.S.C. § 1332. After Chaney amended his complaint twice, Extra Space moved for judgment on the pleadings, and the district court granted the motion. As relevant to this appeal, the court concluded that Extra Space was not liable for loss from theft or rodents unless the loss resulted from gross negligence, fraud, or willful violations of law. But Chaney had not plausibly alleged that those exceptions applied. Next, the court noted that Chaney accused Extra Space of violating 215 ILCS 5/500-107, a law requiring licensure for storage facilities that offer or sell insurance. But Extra Space did not offer or sell insurance. The court then observed that Chaney also accused Extra Space of fraud and violating the Racketeer Influenced and Corrupt Organizations (RICO) Act, 18 U.S.C. §§ 1961–1968. But Chaney did not identify any predicate acts of fraud. Finally, the court considered Chaney's claim that Extra Space unlawfully denied him toilet access. But, the court explained, Chaney had not adequately alleged that the toilet was a public accommodation, and he sought damages under laws that do not supply such relief.

On appeal, Chaney contests the dismissal of his suit on the pleadings, a decision that we review de novo. *Taylor*, 958 F.3d at 562. He begins by observing that Extra Space may be liable for losses caused by its willful violations of law, and, he contends, Extra Space violated the RICO Act by fraudulently offering contracts that do not comply with 215 ILCS 5/500-107. Under this Illinois law, a self-service storage facility “must” obtain a “license before offering or selling insurance.” 215 ILCS 5/500-107(a). But the complaint does not allege that Extra Space offers or sells insurance. To the contrary, the rental contract states that Extra Space “[d]oes not provide insurance” and lists companies that do. Thus, the contract refutes assertions of fraud. Chaney responds with vague allegations about fraud involving administrative fees and regulations of the Securities and Exchange Commission and the Internal Revenue Service. When alleging fraud, plaintiffs face a higher bar. They “must state with particularity the circumstances constituting fraud.” FED. R. CIV. P. 9(b). Chaney’s allegations were not specific enough to meet this standard.

Next, Chaney alleges that Extra Space is responsible for the loss and damage from the rodents and burglaries. He cites the provision of the contract that relieves Extra Space of liability for losses from “theft,” “rodents,” and “failure to act” unless caused by its “gross negligence.” And, he insists, Extra Space’s failure to stop rodents, to aim security monitors at his unit (to stop burglaries), and to have a manager help him after the burglaries, equals gross negligence. But for claims of gross negligence, Chaney must show that Extra Space substantially departed from a common-law duty. *See Alonso v. Weiss*, 932 F.3d 995, 1004 (7th Cir. 2019). Yet he does not supply authority suggesting that, if Extra Space did not eradicate all rodents, train security monitors on his unit, or render aid after burglaries, then it substantially departed from whatever duty it had when renting storage space. *See Vesely v. Armslist LLC*, 762 F.3d 661, 665 (7th Cir. 2014) (addressing element of duty in negligence claims). Consequently, the claim fails.

Finally, Chaney unsuccessfully restates his claim that Extra Space unlawfully refused him access to a toilet. He invokes both the Americans with Disabilities Act, 42 U.S.C. § 12101, and Title II of the Civil Rights Act of 1964, 42 U.S.C. § 2000a, which provide equitable relief when operators of public accommodations deny such access. Even if we assume that the toilet was publicly available, he seeks only money damages, and neither statute provides for that relief. 42 U.S.C. §§ 2000a-3, 12188(a)(1); *Newman v. Piggie Park Enters., Inc.*, 390 U.S. 400, 402 (1968). Chaney also cites the equal protection clauses of the Illinois and U.S. constitutions, but those address government action—not private companies like Extra Space.

No. 22-2747

Page 4

We have considered Chaney's other arguments, and none has merit.

AFFIRMED