

IN RE REIS.

{3 Woods, 18.}¹

Circuit Court, D. Louisiana. Nov. Term, 1876.

LANDLORD AND TENANT—LIEN FOB RENT—LOSS
BY FIRE—BANKRUPTCY.

In Louisiana the privilege of a landlord for rent, upon the goods of his tenant, is lost by their destruction by fire, and does not attach to the insurance money.

[Appeal from the district court of the United States for the district of Louisiana.]

This was a contest between two creditors of the bankrupt. The only assets of the bankrupt estate were about \$1,000 in cash in the hands of the assignee, being the insurance received on certain goods and chattels which had been the property of the bankrupt, and had been destroyed by fire. Pohlman, one of the creditors, claimed to have a privilege on the fund by reason of the fact that he had been subrogated to the lien of the landlord of [Frederick] Reis upon the goods destroyed, which had been in the leased premises. The other creditor, Berthel, claimed by virtue of an attachment issued more than four months before Reis had been adjudicated a bankrupt, and by virtue of which the insurance money had been seized.

J. Tharpe, for Pohlman.

Messrs. A. Sambola and P. A. Ducros, Jr., for Berthel.

WOODS, Circuit Judge. If Pohlman has any lien at all, it is the elder and therefore the better one. The controversy turns upon the question whether Pohlman has any lien at all upon the fund. And this presents the question whether the lien of the landlord upon the goods of his tenant remains after the goods are destroyed by fire and then attaches to the insurance money. The jurisprudence of this state does not

sanction such an idea. The lien and privilege is lost by the destruction of the property. Civ. Code, art. 3277; *Thayer v. Goodale*, 4 La. 221; *Eymar v. Lawrence*, 8 La. 42; *Slark v. Broom*, 7 La. Ann. 337. Such is also the rule of the French law. 4 Trop. Priv. & Mort. Nos. 889, 890; 20 Duranton, No. 328.

As Pohlman has lost his privilege by reason of the destruction of the property on which it rested, the claim of Berthel to priority of payment must be allowed. Decree of the district court affirmed.

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