

STATE OF MICHIGAN
COURT OF APPEALS

DICKEY FOSTER,

Plaintiff-Appellant,

v

CITY OF DETROIT,

Defendant,

and

DETROIT EDISON COMPANY,

Defendant-Appellee.

UNPUBLISHED

August 3, 1999

No. 204599

Wayne Circuit Court

LC No. 96-616134 NO

Before: Sawyer, P.J., and Holbrook, Jr., and W. E. Collette,* JJ.

PER CURIAM.

Plaintiff appeals as of right from the trial court's order granting the motion for summary disposition filed by defendant Detroit Edison Company. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff filed suit alleging that on a date prior to July 14, 1995, Edison and/or the City of Detroit downed a live power line. Plaintiff alleged that on July 14, 1995, he was watering his lawn when he heard an explosion, was thrown to the ground, and lost consciousness due to an electrical shock from the downed line.

The City of Detroit was dismissed from the suit pursuant to a stipulation. The trial court granted Edison's motion for summary disposition pursuant to MCR 2.116(C)(10), finding that even assuming arguendo that Edison breached a duty by failing to make the area safe after the wire was downed, no genuine issue of fact existed as to whether Edison's breach was the proximate cause of plaintiff's alleged back injury.

* Circuit judge, sitting on the Court of Appeals by assignment.

We review a trial court's decision on a motion for summary disposition de novo. *Harrison v Olde Financial Corp*, 225 Mich App 601, 605; 572 NW2d 679 (1997).

Plaintiff argues that the trial court erred by granting Edison's motion for summary disposition. We disagree and affirm. In an action arising from a tortious injury, there are four elements: (1) the existence of a legal duty; (2) the breach of the duty; (3) the proximate causal relation between the breach and an injury to the plaintiff; and (4) the suffering of damages by the plaintiff. *Lorencz v Ford Motor Co*, 439 Mich 370, 375; 483 NW2d 844 (1992). Proving proximate cause entails establishing proof of two elements: (1) cause in fact, i.e., a showing that but for the defendant's actions, the injury would not have occurred; and (2) legal or proximate cause, which involves an examination of the foreseeability of consequences and whether the defendant should be held responsible for such consequences. *Skinner v Square D Co*, 445 Mich 153, 162-163; 516 NW2d 475 (1994). The evidence showed that while plaintiff fell in his yard, apparently after receiving a shock, he did not come into direct contact with the downed wire, and did not suffer any type of burn. When he sought medical treatment several days later, for a sinus headache, he reported having been shocked, but denied that he had suffered injury as a result of the incident. Plaintiff cites no evidence that would create a genuine issue of fact as to whether the fall he suffered as a result of the shock resulted in any back problem from which he now suffers. Plaintiff did not create a question of fact regarding causation; therefore, the trial court correctly decided the issue as one of law. *Reeves v K-Mart Corp*, 229 Mich App 466, 480; 582 NW2d 841 (1998).

Affirmed.

/s/ David H. Sawyer

/s/ Donald E. Holbrook, Jr.

/s/ William E. Collette