STATE OF MICHIGAN

COURT OF APPEALS

BILLY KEHOE,

Plaintiff-Appellant,

v

PAMELA GARRISON and ROBERT GARRISON,

Defendants-Appellees.

UNPUBLISHED
December 19, 2000

No. 216195
Wayne Circuit Court
LC No. 98-800941-NO

Before: Bandstra, C.J., and Fitzgerald and D. B. Leiber*, JJ.

MEMORANDUM.

Plaintiff appeals as of right the order granting defendants' motion for summary disposition under MCR 2.116(C)(10) in this slip-and-fall negligence case. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff, a licensee, fell on a step located in the back of defendants' garage. Defendants moved for summary disposition, asserting that the danger was open and obvious, and they owed no duty to plaintiff. Plaintiff argued that the unusual nature of the step presented a question of fact for trial regarding defendants' duty. The trial court granted defendants' motion.

Summary disposition under MCR 2.116(C)(10) is appropriate if there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. *Gibson v Neelis*, 227 Mich App 187, 190; 575 NW2d 313 (1997). When reviewing such a motion, this Court must consider the evidence in a light most favorable to the nonmoving party and determine whether there exists a genuine issue of material fact on which reasonable minds could differ or whether the moving party is entitled to judgment as a matter of law. *Id.*

A landowner has a duty to protect licensees from unreasonable dangers of which they may be unaware. *DeBoard v Fairwood Villas Condominium Assn*, 193 Mich App 240, 242; 483 NW2d 422 (1992). The open and obvious danger principle establishes awareness and the ability to avoid the danger. *Haas v City of Ionia*, 214 Mich App 361, 362; 543 NW2d 21 (1995).

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

In *Bertrand v Alan Ford, Inc*, 449 Mich 606; 537 NW2d 185 (1995), the Supreme Court applied the open and obvious danger doctrine to steps. The Court stated:

> In summary, because steps are the type of everyday occurrence that people encounter, under most circumstances, a reasonably prudent person will look where he is going, will observe the steps, and will take appropriate care for his own safety. Under ordinary circumstances, the overriding public policy of encouraging people to take reasonable care for their own safety precludes imposing a duty on the possessor of land to make ordinary steps "foolproof." Therefore, the risk of harm is not unreasonable. However, where there is something unusual about the steps because of their "character, location, or surrounding conditions," then the duty of the possessor of land to exercise reasonable care remains. If the proofs create a question of fact that the risk of harm was unreasonable, the existence of duty as well as breach become questions for the jury to decide. [*Id.* at 616-617.]

Here, the trial court found that there was nothing unusual about the steps that would require the landowner to exercise reasonable care. Although the steps included a platform section, the risk was open and obvious. The nature of the steps was readily discoverable on casual inspection. The trial court properly granted summary disposition to defendants. *Novotney v Burger King Corp (On Remand)*, 198 Mich App 470, 476-477; 499 NW2d 379 (1993).

We affirm.

/s/ Richard A. Bandstra
/s/ E. Thomas Fitzgerald
/s/ Dennis B. Leiber