

STATE OF MICHIGAN
COURT OF APPEALS

SEAN ROOT,

Plaintiff-Appellant,

v

DANIELLE REGINEK,

Defendant-Appellee.

UNPUBLISHED

August 30, 2002

No. 231899

Wayne Circuit Court

LC No. 99-934186-NO

ON REHEARING

Before: Murray, P.J., and Sawyer and Zahra, JJ.

MEMORANDUM.

Plaintiff appeals as of right from a circuit court order granting defendant's motion for summary disposition. We affirm.

Plaintiff filed this premises liability action to recover damages for injuries sustained while using a trampoline at defendant's home. The trial court ruled that defendant did not owe a duty to plaintiff, who was undisputedly a licensee.¹ Plaintiff's argument focuses on causation. However, to prove negligence, a plaintiff must establish a breach of duty owed by the defendant which is a proximate cause of the plaintiff's injuries. *Nolan v Bronson*, 185 Mich App 163, 169; 460 NW2d 284 (1990). Plaintiff fails to discuss the threshold issue whether defendant owed him a duty in the first instance, an issue which must necessarily be determined in order to conclude that she was negligent, i.e., that she breached a duty of care owed to plaintiff. Because plaintiff has failed to address the basis of the trial court's ruling, which issue must necessarily be reached to reverse that ruling, plaintiff has failed to establish a right to relief. *Joerger v Gordon Food Service, Inc*, 224 Mich App 167, 175; 568 NW2d 365 (1997); *Roberts & Son Contracting, Inc v North Oakland Dev Corp*, 163 Mich App 109, 113; 413 NW2d 744 (1987).

Affirmed.

/s/ Christopher M. Murray

/s/ David H. Sawyer

/s/ Brian K. Zahra

¹ We note that premises liability is conditioned on possession and control of the property. *Merritt v Nickelson*, 407 Mich 544, 552; 287 NW2d 178 (1980). A review of the file reveals that defendant was a minor who lived with her parents and they owned and controlled the property. Thus defendant could not be held liable regardless of plaintiff's status.