

STATE OF MICHIGAN  
COURT OF APPEALS

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ELWANZA BENNETT, Personal Representative  
of the Estate of TANYA D. BENNETT,

UNPUBLISHED  
December 27, 2002

Plaintiff-Appellant,

v

CITY RECYCLING, INC.,

No. 236782  
Wayne Circuit Court  
LC No. 99-937580-NO

Defendant-Appellee.

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Before: Hood, P.J., and Smolenski and Kelly, JJ.

MEMORANDUM.

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

Defendant is a scrap yard located in the City of Detroit. Decedent's body was found in a sewer/manhole located in the public alley behind defendant's scrap yard, and approximately 20 feet from defendant's perimeter fence. Decedent had apparently been missing for several weeks. Plaintiff alleged that decedent had a relationship with the night watchman at defendant's premises, and that the night watchman sometimes allowed her to sleep there, giving rise to premises liability. We disagree.

Whether a defendant owes a duty of care to a plaintiff presents a question of law for the court. *Beaudrie v Henderson*, 465 Mich 124, 130; 631 NW2d 308 (2001). A merchant must take reasonable measures in response to an ongoing situation that occurs on the premises, but there is no obligation to otherwise anticipate the criminal acts of third parties. *MacDonald v PKT, Inc*, 464 Mich 322, 338; 628 NW2d 33 (2001). A duty is triggered by specific acts that occur on the premises that pose a risk of imminent and foreseeable harm to an identifiable invitee. *Id.* Irrespective of the knowledge that defendant's representatives may have had about

the living arrangements of plaintiff's decedent at the scrap yard, plaintiff failed to identify any specific ongoing acts of notice of a threat of harm to the decedent. Accordingly, the trial court properly granted defendant's motion for summary disposition.

Affirmed.

/s/ Harold Hood

/s/ Michael R. Smolenski

/s/ Kirsten Frank Kelly