STATE OF MICHIGAN

COURT OF APPEALS

BEVERLY J. TARRANCE,

Plaintiff-Appellant,

v

DIANE COLE,

Defendant-Appellee.

UNPUBLISHED
August 18, 2005

No. 253853
Oakland Circuit Court
LC No. 2003-047086-NO

Before: Zahra, P.J., and Cavanagh and Owens, JJ.

MEMORANDUM.

Plaintiff appeals as of right from the trial court order granting summary disposition to defendant under MCR 2.116(C)(10). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff, a visiting nurse who provided services to defendant, arrived at defendant's house around 8:00 a.m. on February 2, 2000, and pulled into the snow-covered driveway, as plaintiff had done three times a week for three years. Plaintiff entered defendant's house through the side door, which was left open for her. About 9:30 a.m., after plaintiff had attended to defendant's needs, she left by the same side door. As plaintiff turned to close the door, she slipped and fell on a patch of ice that had formed from water dripping off the roof. Plaintiff did not see the ice before she fell. However, after she fell, she saw the ice and the water dripping off the roof. Plaintiff injured a knee in the fall and ultimately had it replaced. Plaintiff sued defendant on a negligence theory alleging that defendant failed to maintain a reasonably safe premises and failed to warn her of the dangerous condition resulting from water dripping off the roof and freezing on the driveway. The trial court granted summary disposition to defendant, ruling that the icy condition was open and obvious and that no special aspects removed the condition from the open and obvious doctrine.

A landowner's a duty to an invitee to exercise reasonable care to protect the invitee from an unreasonable risk of harm caused by a dangerous condition on the land does not require the removal of open and obvious dangers. *Lugo v Ameritech Corp, Inc*, 464 Mich 512, 516; 629 NW2d 384 (2001). A danger is open and obvious if a reasonable person of ordinary intelligence in plaintiff's position would have been able to discover the danger and appreciate the risk upon casual observation. *Novotney v Burger King Corp (On Remand)*, 198 Mich App 470, 474; 499 NW2d 379 (1993). If there are special aspects to an open and obvious danger, the landowner has a duty to take reasonable precautions to protect invitees from the danger. *Bertrand v Alan Ford*,

Inc, 449 Mich 606, 611; 537 NW2d 185 (1995). A special aspect is "something unusual about the character, location, or surrounding conditions" that makes the risk of harm unreasonable. *Id*. at 614. Special aspects give rise to a high likelihood of harm or a high severity of harm, if the risk is not avoided. *Id*. at 619.

After reviewing the record, we agree with the trial court and find that the icy condition was open and obvious to the reasonable person of ordinary intelligence upon casual observation. We also find that the source of the ice from water dripping off the roof was not a special condition that increased the severity of harm or the likelihood of harm resulting from the open and obvious danger. Further, we note that defendant's house had three entrances, and that even though the side door was left open for plaintiff's use, plaintiff did not show that she could not have used one of the other entrances if she wanted to avoid the alleged danger.

Affirmed.

/s/ Brian K. Zahra
/s/ Mark J. Cavanagh
/s/ Donald S. Owens