STATE OF MICHIGAN

COURT OF APPEALS

KATHERINE KLOS,

Plaintiff-Appellant,

v

KARLMAN FOOD SERVICES, INC., d/b/a ALL AROUND BAR,

Defendant-Appellee.

UNPUBLISHED
December 22, 2005

No. 255436
Wayne Circuit Court
LC No. 03-301398-NO

Before: Owens, P.J., and Saad and Fort Hood, JJ.

PER CURIAM.

Plaintiff appeals by right from the circuit court order granting defendant's motion for summary disposition on her claim for personal injury based on a theory of premises liability. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff went to defendant's club about 9:00 p.m. with several of her friends to celebrate a birthday. While plaintiff was at the club, she consumed five beers. She first danced on the dance floor around 10:00 p.m. and returned to her seat without incident. She then moved to the dance floor around 1:30 a.m. and danced again. As she returned to her seat, she allegedly tripped over a floor molding and injured herself requiring medical attention. The molding was made of black rubber and separated a blue-carpeted seating area from a light-colored tiled dance floor. The molding was two inches wide and one-eighth of an inch high.

Generally, a premises possessor owes no duty to protect invitees from open and obvious dangers. A danger is open and obvious if an average user with ordinary intelligence would have been able to discover the danger upon casual inspection. In determining whether a condition is open and obvious, a court considers whether there are special aspects or conditions that attend the open and obvious risk and make the hazard unreasonably dangerous by reason of unavoidability or a high likelihood of severe harm. Such special aspects require the possessor of the property to reasonably protect invitees from the hazard. *Lugo v Ameritech Corp,* 464 Mich 512, 517-519; 629 NW2d 384 (2001); *Bertrand v Alan Ford, Inc,* 449 Mich 606, 609; 537 NW2d 185 (1995); *Riddle v McLouth Steel Products Corp,* 440 Mich 85, 96; 485 NW2d 676 (1992).

Upon de novo review of the record, we conclude that there is no issue of material fact regarding whether the molding was an open and obvious hazard, assuming that it even was a hazard. The molding was black in contrast to the blue carpet and light-colored tiled flooring and

visible upon casual observation to anyone who looked down at the floor. Further, plaintiff had negotiated the molding safely the first time that she danced and even admitted that she knew the molding was there. We also conclude that there is no issue of material fact regarding whether there were any attendant special aspects that made the molding unreasonably dangerous by rendering it unavoidable or by presenting a high likelihood of severe harm. The dim lighting, the overcrowded occupancy, and the rearranged furniture did not render the molding unavoidable; plaintiff could have simply walked over it as she had done previously. These alleged special aspects also did not present a high likelihood of severe harm. The molding was only two inches wide and one-eighth of an inch high, and it presented only the ordinary type of risk that people routinely encounter every day, especially at popular and dimly lighted clubs with dance floors.

Accordingly, we conclude that the trial court did not err in granting summary disposition based on the open and obvious doctrine.

Affirmed.

/s/ Donald S. Owens
/s/ Henry William Saad
/s/ Karen M. Fort Hood