STATE OF MICHIGAN

COURT OF APPEALS

JACK C. MCDOWELL and BETTY MCDOWELL, Plaintiffs-Appellants, v BIG LOTS STORES, INC., Defendant-Appellee.	UNPUBLISHED March 8, 2007 No. 272022 Oakland Circuit Court LC No. 05-067216-NO

Before: Hoekstra, P.J., and Markey and Wilder, JJ.

PER CURIAM.

Plaintiffs appeal as of right from the trial court's order granting defendant's motion for summary disposition in this premises liability case. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Jack McDowell went to defendant's store in Waterford Township. The store has two sets of double doors that open electronically. McDowell proceeded through the first set of doors without incident, but while he was between the sets of doors he fell against a metal railing and sustained injuries.

Plaintiffs filed suit alleging that the electronic doors malfunctioned and closed on McDowell, thereby knocking him into the metal railing. Plaintiffs alleged that defendant breached its duty to maintain the premises in a reasonably safe condition and to warn of the unsafe condition. Betty McDowell sought damages for loss of consortium.

Defendant moved for summary disposition pursuant to MCR 2.116(C)(10), arguing that no evidence showed that the doors malfunctioned or that it was negligent in its maintenance of the doors. Defendant noted that in a deposition, Jack McDowell testified that he did not know if the doors malfunctioned, but that as the doors opened, he struck his arm on the metal railing and fell. In addition, defendant relied on the opinion of its expert to the effect that no mechanical defect could have caused the incident described by Jack McDowell.

In response, plaintiffs noted that defendant's expert opined that the closing time for the doors was too fast. In addition, plaintiffs emphasized that defendant's maintenance records revealed that the doors had had a history of problems prior to the accident.

The trial court granted defendant's motion for summary disposition, finding that no evidence created a question of fact as to whether the doors were defective.

We review a trial court's decision on a motion for summary disposition de novo. *Auto Club Group Ins Co v Burchell*, 249 Mich App 468, 479; 642 NW2d 406 (2001).

To establish a prima facie case of negligence, a plaintiff must prove: (1) that the defendant owed a duty to the plaintiff; (2) that the defendant breached the duty; (3) that the defendant's breach of duty proximately caused the plaintiff's injuries; and (4) that the plaintiff suffered damages. *Case v Consumers Power Co*, 463 Mich 1, 6; 615 NW2d 17 (2000).

A storekeeper must provide reasonably safe premises for customers. In a premises liability action, a plaintiff must show either that the defendant caused the unsafe condition, or that the defendant knew or should have known of the unsafe condition. Such knowledge may be inferred from evidence that the condition existed for a sufficient length of time for the storekeeper to have discovered it. *Clark v K-Mart Corp*, 465 Mich 416, 419; 634 NW2d 347 (2001).

Plaintiffs argue that the trial court erred by granting defendant's motion for summary disposition. Plaintiffs assert that at a minimum, a question of fact existed as to whether the doors malfunctioned and caused the accident. We disagree.

No evidence showed that the doors malfunctioned in any way. McDowell acknowledged in his deposition that he did not know if the doors malfunctioned when the accident occurred. Defendant's maintenance records reveal that the doors experienced problems; however, these problems occurred several months before McDowell was injured. Moreover, none of the maintenance records reflect that the doors malfunctioned in the manner alleged by plaintiffs (i.e., closing too quickly). Defendant's expert opined that the doors closed too quickly; however, defendant's expert examined the doors more than two years after McDowell's injury occurred. No evidence established the speed at which the doors closed at the time the accident occurred.

Plaintiffs did not present evidence to establish why the accident occurred as it did. Such evidence must be presented to make out a prima facie case of negligence. *Stefan v White*, 76 Mich App 654, 661; 257 NW2d 206 (1977). To establish causation, a plaintiff must prove that it is more likely than not that but for the defendant's breach of duty, the injury would not have occurred. *Skinner v Square D Co*, 445 Mich 153, 165-166; 516 NW2d 475 (1994). Speculation that a breach of duty by defendant caused McDowell to sustain injuries is not sufficient to establish causation. *Ritter v Meijer, Inc*, 128 Mich App 783, 786; 341 NW2d 220 (1983). The trial court properly decided the issue as one of law and granted summary disposition. *Reeves v K-Mart Corp*, 229 Mich App 466, 480; 582 NW2d 841 (1998).

Affirmed.

/s/ Joel P. Hoekstra
/s/ Jane E. Markey
/s/ Kurtis T. Wilder