STATE OF MICHIGAN

COURT OF APPEALS

JOHN HARTFIELD,

Plaintiff-Appellant,

v

STOP 'N LOCK PROPERTIES, d/b/a STOP 'N LOCK SELF-STORAGE, INC.,

Defendant-Appellee,

and

PROVENE DOORS, INC.,

Defendant.

UNPUBLISHED
November 25, 2008

No. 279898
Washtenaw Circuit Court
LC No. 06-000853-NO

Before: Murphy, P.J., and Sawyer and Smolenski, JJ.

PER CURIAM.

In this premises liability suit, plaintiff John Hartfield appeals as of right the trial court's order granting summary disposition under MCR 2.116(C)(10) in favor of defendant Stop 'N Lock Properties (SNL Properties). Because we conclude that there were no errors warranting relief, we affirm. This appeal has been decided without oral argument under MCR 7.214(E).

In August 2004, Hartfield and a coworker were emptying a storage unit for a client. As Hartfield's coworker tried to close the door to the storage unit, the door came off its track and struck Hartfield in the head. Hartfield sued SNL Properties for failing to protect him from the dangerous condition on SNL Properties' land. SNL Properties moved for summary disposition on the ground that the hazard posed by the door was open and obvious and that there was no evidence that SNL Properties had actual or constructive knowledge of the hazardous condition. The trial court agreed with SNL Properties and granted summary disposition in its favor. Hartfield now appeals. On appeal, plaintiff argues that a genuine issue of material facts exists regarding whether defendant violated its duty to inspect its premises for hazardous conditions.

This Court reviews a trial court's decision on a motion for summary disposition de novo. *Willett v Waterford Charter Twp*, 271 Mich App 38, 45; 718 NW2d 386 (2006). A motion for summary disposition brought under MCR 2.116(C)(10) tests the factual support for a claim and should be granted when there is no genuine issue of material fact and the moving party is entitled

to judgment as a matter of law. *The Healing Place at North Oakland Med Ctr v Allstate Ins Co*, 277 Mich App 51, 55-56; 744 NW2d 174 (2007). When the burden of proof at trial would rest on the nonmoving party, the nonmovant may not rest upon mere allegations or denials in the pleadings, but must, by documentary evidence, set forth specific facts showing that there is a genuine issue for trial. *Quinto v Cross & Peters Co*, 451 Mich 358, 362; 547 NW2d 314 (1996).

In a premises liability action, the plaintiff must prove the four elements of negligence: (1) that the defendant had a duty to the plaintiff, (2) the defendant breached that duty, (3) the breach proximately caused an injury, and (4) the plaintiff suffered damages as a result. *Taylor v Laban*, 241 Mich App 449, 452; 616 NW2d 229 (2000). Different standards of care are owed to a plaintiff in accordance with the plaintiff's status on the land. The determination of the status of the visitor depends primarily on the purpose of the landowner in inviting the visitor onto the premises. *Kosmalski v St John's Lutheran Church*, 261 Mich App 56, 60-61; 680 NW2d 50 (2004). In this case, it is undisputed that plaintiff was an invitee.

The duty owed by the premises possessor to an invitee is the exercise of reasonable care to warn or protect an invitee from an unreasonable risk of harm caused by a dangerous condition on the land. *Lugo v Ameritech*, 464 Mich 512, 516; 629 NW2d 384 (2001). This duty of care requires the invitor "not only to warn the invitee of any known dangers, but the additional obligation to also make the premises safe, which requires the landowner to inspect the premises and, depending upon the circumstances, make any necessary repairs or warn of any discovered hazards." *Stitt v Holland Abundant Life Fellowship*, 462 Mich 591, 597; 614 NW2d 88 (2000). Under this standard, a premises proprietor is liable for any injury resulting from an unsafe condition that is of such a character or that has existed for a sufficient length of time that the premises proprietor should have had knowledge of it. *Hampton v Waste Mgt of Michigan, Inc*, 236 Mich App 598, 604; 601 NW2d 172 (1999).

There is no issue of material fact regarding whether SNL Properties breached its duty to inspect its premises for hazardous conditions. There is no evidence in the record that SNL Properties had actual notice that the door of this unit was in a hazardous condition. Nancy Marshall, the unit's tenant, had accessed it several times before the incident, and never complained that there was a problem. Both John Rankins, who oversaw maintenance at the facility, and Diane Rankins, the office manager, testified that there had never been a problem with this door. Indeed, John Rankins stated that he had never had this type of a problem with any door at the facility. Because there is no evidence that SNL Properties' agents created the unsafe condition or that the unsafe condition was actually known to SNL Properties, Hartfield had to present evidence that the unsafe condition was of such a character or existed for a sufficient length of time that SNL Properties should have known of it. *Hampton*, *supra* at 604-605.

In this case, Hartfield presented no evidence on which reasonable minds could differ regarding whether SNL Properties would have known of the unsafe condition had it not been for allegedly inadequate inspections. Hartfield relies on the infrequency of SNL Properties' inspection regimen, but it is undisputed that the actual door involved was inspected only months before the incident and found to be functioning properly. Hartfield also notes that the last inspection only involved the basic function of the door and a greasing of the tracks, but failed to present any evidence that a more thorough inspection would have revealed the hazard. Plaintiff's "speculation and conjecture are insufficient to create an issue of material fact."

Ghaffari v Turner Const Co, 268 Mich App 460, 464; 708 NW2d 448 (2005). The trial court did not err in granting defendant's motion for summary disposition.

Affirmed.

/s/ William B. Murphy
/s/ David H. Sawyer
/s/ Michael R. Smolenski