

STATE OF MICHIGAN
COURT OF APPEALS

TOWANA PHILLIP, as Next Friend of
TI'YANNA DORSEY, a Minor,

Plaintiff,

v

STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY,

Defendant/Cross-Plaintiff-Appellee,

and

FARM BUREAU GENERAL INSURANCE
COMPANY OF MICHIGAN,

Defendant/Cross-Defendant-
Appellant.

UNPUBLISHED
April 16, 2009

No. 282101
Oakland Circuit Court
LC No. 2005-068277-NF

Before: Saad, C.J., and Bandstra and Hoekstra, JJ.

PER CURIAM.

Defendant Farm Bureau General Insurance Company of Michigan (Farm Bureau) appeals as of right the trial court's order granting summary disposition under MCR 2.116(C)(10) to defendant State Farm Mutual Automobile Insurance Company (State Farm). The trial court held that, because Ti'Yanna Dorsey and her mother, plaintiff Towana Phillip, were domiciled with Maxwell Phillip, Towana's father, on August 7, 2004, Farm Bureau, Maxwell's no-fault insurer, was liable for Ti'Yanna's personal injury protection benefits. Because we conclude that the trial court reached the right result, we affirm.

I. Basic Facts

Towana lived in an apartment in Dearborn Heights with four of her children, including Ti'Yanna. In June 2004, Ti'Yanna, along with one of her brothers, traveled to Mississippi with her paternal grandmother, Bessie Dorsey, for the summer. Bessie had a no-fault insurance policy with State Farm. Towana's apartment lease expired on June 30, 2004, at which time she planned to move into a house in Detroit. The house, which was located on Mettetal Street, was owned by Maxwell. However, because the Mettetal Street house was not yet habitable at the end of June,

nor as of July 22, 2004, when she was forced to vacate the apartment, Towana moved into Maxwell's house on Penrod Street in Detroit. On August 7, 2004, Bessie and Ti'Yanna were involved in an automobile accident in Mississippi, and Ti'Yanna suffered severe brain injuries.

II. Analysis

Farm Bureau does not dispute that, pursuant to MCL 500.3114(1), if Towana and Ti'Yanna were domiciled with Maxwell on August 7, 2004, it is liable for Ti'Yanna's personal injury protection benefits. However, it claims that, based on a consideration of the factors enunciated by the Supreme Court and this Court as relevant to the determination of a person's domicile, Towana and Ti'Yanna were not domiciled with Maxwell on the date of the accident. We disagree.

A

We review de novo a trial court's decision on a motion for summary disposition. *Latham v Barton Malow Co*, 480 Mich 105, 111; 746 NW2d 868 (2008). Summary disposition is proper under MCR 2.116(C)(10) if there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. *Id.* Generally, the determination of a person's domicile is a question of fact. *Fowler v Auto Club Ins Ass'n*, 254 Mich App 362, 364; 656 NW2d 856 (2002). However, when the underlying facts are not in dispute, as in this case, domicile is a question of law for the court. *Id.*

B

A person's domicile has generally been defined "as the place where a person has his home, with no present intention of removing, and to which he intends to return after going elsewhere for a longer or shorter time." *Dairyland Ins Co v Auto-Owners Ins Co*, 123 Mich App 675, 681; 333 NW2d 322 (1983) (quotation omitted). In *Workman v DAIIE*, 404 Mich 477, 496-497; 274 NW2d 373 (1979), our Supreme Court articulated four factors, "[a]mong the relevant factors," to consider in determining a person's domicile:

(1) the subjective or declared intent of the person of remaining, either permanently or for an indefinite or unlimited length of time, in the place he contends is his "domicile" or "household"; (2) the formality or informality of the relationship between the person and the members of the household; (3) whether the place where the person lives is in the same house, within the same curtilage or upon the same premises; and (4) the existence of another place of lodging by the person alleging "residence" or "domicile" in the household. [Citations omitted.]

This Court has articulated additional factors to consider:

(1) the person's mailing address; (2) whether the person maintains possessions at the insured's home; (3) whether the insured's address appears on the person's driver's license and other documents; (4) whether a bedroom is maintained for the person at the insured's home; and (5) whether the person is dependent upon the insured for financial support or assistance. [*Williams v State Farm Mut Automobile Ins Co*, 202 Mich App 491, 494-495; 509 NW2d 821 (1993).]

The above nine factors are not an exhaustive list of all factors relevant to determining a person's domicile for purposes of the no-fault act. Our Supreme Court has stated that the term "domicile" in context of the no-fault act must be viewed "flexibly . . . within the context of the numerous factual settings possible." *Workman, supra* at 496. "All relevant factors must be considered in ascertaining domicile." *Dairyland Ins Co, supra* at 681.

Every person is domiciled somewhere. *Beecher v Common Council of Detroit*, 114 Mich 228, 230; 72 NW 206 (1897). Here, there are, arguably, three places at which Towana and Ti'Yanna were domiciled on August 7, 2004: the Dearborn Heights apartment, the Penrod Street House, and the Mettetal Street house. Towana and Ti'Yanna were not domiciled at the Dearborn Heights apartment; Towana had vacated the apartment, and had no intention of returning to the apartment.¹ The house on Mettetal Street was not habitable, a factor we find relevant in determining the domicile of Towana and Ti'Yanna. Because the Mettetal Street house was uninhabitable and Towana and Ti'Yanna had never resided there, Towana and Ti'Yanna were not domiciled at the house on Mettetal Street on August 7, 2004. Thus, by default, the house on Penrod Street, which was where Towana intended to reside until the Mettetal Street house was habitable, was the domicile of Towana and Ti'Yanna on the date of the accident. Under the unique circumstances of this case, the trial court reached the right result, and we affirm the trial court's order granting summary disposition to State Farm.

Affirmed.

/s/ Henry William Saad

/s/ Richard A. Bandstra

/s/ Joel P. Hoekstra

¹ Indeed, neither State Farm nor Farm Bureau argues that Towana and Ti'Yanna were domiciled at the Dearborn Heights apartment on August 7, 2004.