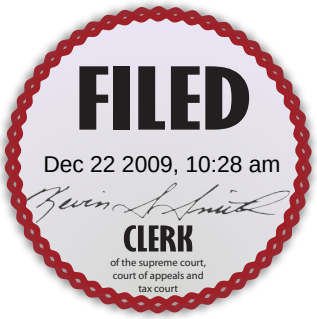

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IN THE
COURT OF APPEALS OF INDIANA

DENISE ANN SMITH and RICHARD L. SMITH, Appellants-Plaintiffs, vs. CAROL RONNEAU and JOHN RONNEAU, Appellees-Defendants.	)))))))))))	No. 64A04-0908-CV-479

APPEAL FROM THE PORTER SUPERIOR COURT
The Honorable Roger V. Bradford, Judge
Cause No. 64D01-0711-CT-10508

December 22, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

BAKER, Chief Judge

The Ronneaus invited the Smiths over for dinner. After dinner, Denise Smith was helping to clean up and intended to place the used linens on the washing machine in the laundry room. She opened what she believed was the laundry room door but was actually the basement door. Denise stepped in and fell down the stairs, sustaining multiple injuries. The Smiths argue that the Ronneaus breached a duty of care to them. Finding that Denise's accident was just that—an accident—and that the basement stairs with a closed door at the top of them do not constitute a dangerous condition such that the Ronneaus breached a duty, we affirm the trial court's entry of summary judgment in favor of the Ronneaus.

Appellants-defendants Denise Ann Smith and Richard L. Smith appeal the trial court's order granting summary judgment in favor of appellees-defendants Carol Ronneau and John Ronneau on the Smiths' negligence complaint against the Ronneaus. The Smiths argue that there are issues of fact that should prevent the entry of summary judgment. Finding as a matter of law that the Ronneaus did not breach a duty of care owed to the Smiths, we affirm.

FACTS

The Smiths and the Ronneaus were friends and frequently spent time together. The Smiths had been to the Ronneau residence five to six times before the day on which Denise's accident occurred. The Ronneau home is a ranch home with a basement. Adjacent to the kitchen is a hallway with four doors on the left-hand side. The hallway is well lit and there are several light switches available for someone seeking to illuminate

the area. Closest to the kitchen is a closet door, then a bathroom door, then a laundry room door, and, finally, the basement door. The closet and basement doors open outward; the other two doors open inward. The basement stairs have a railing on the left-hand side of the staircase. Before the day in question, Denise had been in the Ronneaus' laundry room at least twice and had used the restroom several times; she did not know that the home had a basement.

On June 4, 2006, the Ronneaus invited the Smiths over for a cookout. After the meal was finished and while they were cleaning up, Denise offered to help. Carol suggested that she put the tablecloth and napkins they had used during the meal on the washing machine, which is in the laundry room. Denise gathered the linens, walked through the kitchen, and entered the hallway. She did not turn on the hallway lights. All of the doors were closed or mostly closed.

Denise mistakenly believed that the laundry room door was the fourth door on the left rather than the third. Therefore, she walked down the hallway past the closet, bathroom, and laundry room doors, and proceeded to the last door, which she believed to be the laundry room door but which was, in reality, the basement door. She opened the door, stepped through the doorway, and reached out for the light switch, which is next to the doorframe inside the basement. Thinking she was in the laundry room, Denise stepped outward instead of downward onto the first step of the basement stairs; she then fell down the staircase. Denise sustained multiple injuries, including a broken toe that required surgery to repair.

The Ronneaus had lived in the home for approximately twelve years; during that time, people frequently visited their home. No one had ever mistaken the basement door for the bathroom or laundry room doors and no one had ever fallen down the basement steps or had a near fall before Denise's accident.

On November 9, 2007, the Smiths filed a complaint against the Ronneaus, seeking compensation for the physical injuries sustained by Denise as a result of her fall. The Smiths argue that the Ronneaus' negligence caused the damages. On April 30, 2009, the Ronneaus filed a motion for summary judgment, arguing that as a matter of law, they had not breached their duty of care to the Smiths. Following an unrecorded hearing on July 8, 2009, the trial court summarily granted the motion on July 24, 2009. The Smiths now appeal.

DISCUSSION AND DECISION

I. Standard of Review

The Smiths argue that the trial court erroneously granted the Ronneaus' motion for summary judgment. Summary judgment is appropriate only if the pleadings and evidence considered by the trial court show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. Owens Corning Fiberglass Corp. v. Cobb, 754 N.E.2d 905, 909 (Ind. 2001); see also Ind. Trial Rule 56(C). On a motion for summary judgment, all doubts as to the existence of material issues of fact must be resolved against the moving party. Owens Corning, 754 N.E.2d at 909. Additionally, all facts and reasonable inferences from those facts are

construed in favor of the nonmoving party. Id. If there is any doubt as to what conclusion a jury could reach, then summary judgment is improper. Id.

An appellate court faces the same issues that were before the trial court and follows the same process. Id. at 908. The party appealing from a summary judgment decision has the burden of persuading the court that the grant or denial of summary judgment was erroneous. Id. When a trial court grants summary judgment, we carefully scrutinize that determination to ensure that a party was not improperly prevented from having his or her day in court. Id.

Summary judgment is "generally inappropriate in negligence cases because issues of contributory negligence, causation, and reasonable care are more appropriately left for the trier of fact." Coffman v. PSI Energy, Inc., 815 N.E.2d 522, 526 (Ind. Ct. App. 2004). Summary judgment is appropriate, however, when the undisputed material evidence negates at least one element of a negligence claim. Harradon v. Schlamadinger, 913 N.E.2d 297, 300 (Ind. Ct. App. 2009). Furthermore, whether the facts produced by the plaintiff sufficiently establish a claim of negligence is a question of law. Coffman, 815 N.E.2d at 526.

II. Negligence

To recover in a negligence case, the plaintiff must establish three elements: (1) a duty of care owed to the plaintiff by the defendant; (2) a breach of that duty by the defendant; and (3) injury to the plaintiff proximately caused by that breach. Hayden v. Paragon Steakhouse, 731 N.E.2d 456, 457 (Ind. Ct. App. 2000). Landowners owe their

invitees a duty of reasonable care as a matter of law. N. Ind. Pub. Serv. Co. v. Sharp, 790 N.E.2d 462, 466 (Ind. 2003). Whether a breach of duty occurred is a question of law only when the facts are undisputed and only a single inference can be drawn from those facts; otherwise, it is a question of fact for the jury and summary judgment is inappropriate. Id.

The scope of duty owed to an invitee[1] by a landowner has been described as follows:

> "A landowner is liable for harm caused to an invitee by a condition on the land only if the landowner: (1) knows of or through the exercise of reasonable care would discover the condition and realize that it involves an unreasonable risk of harm to such invitees; (2) should expect that the invitee will fail to discover or realize the danger or fail to protect against it; and (3) fails to exercise reasonable care in protecting the invitee against the danger."

Parsons v. Arrowhead Golf, Inc., 874 N.E.2d 993, 998 (Ind. Ct. App. 2007) (quoting Lincke v. Long Beach Country Club, 702 N.E.2d 738, 740 (Ind. Ct. App. 1998)).

The Smiths argue that the Ronneaus owed a duty to them to exercise reasonable care to protect Denise from a condition on their property, namely, a hallways of closed doors in which the basement door is neither labeled as such nor locked. We cannot agree. This court has held in the past that common household items that would generally not present an unreasonable risk of harm to an invitee do not constitute a dangerous condition on the property such that a breach of duty has occurred. See Harradon, 913 N.E.2d at 301 (holding that "[a] sofa is a common household item which generally would not

[1] It is undisputed that the Ronneaus invited the Smiths into their home.

present an unreasonable risk of harm to a baby," such that homeowners' sofa was not a dangerous condition causing death to an infant who had suffocated while sleeping with its parent on the sofa); Lowden v. Lowden, 490 N.E.2d 1143, 1146-47 (Ind. Ct. App. 1986) (holding that a cup of hot coffee is an ordinary household item and observing that "almost any household object may become the instrumentality of injury to a small child, and we simply cannot consider all such objects to be inherently dangerous"). More specifically, our Supreme Court has made the following statement about a closed door to a stairway:

> a closed door to a stairway does not constitute a trap or pitfall. The fact that a door is there is a warning that it is the means of exit or of entrance to some other area, room, or stairway. It defies common sense to assume that persons will precipitately open a door and, without the use of their ordinary senses, enter without a thought as to where it leads.

Hundt v. La Crosse Grain Co., Inc., 446 N.E.2d 327, 329 (Ind. 1983).

Here, the hallway in which the basement door was located was well lit, with multiple light switches available. There is a railing going down the left-hand side of the basement stairs, and a light switch at the top of the stairs on the inside of the door frame. In twelve years of living in the home, the Ronneaus had never entertained a guest who confused the bathroom or laundry room doors with the basement doors, nor had there ever been a fall or near fall. We simply cannot conclude that a non-defective set of stairs, with a closed door at the top, constitute a dangerous condition. Of course, a flight of stairs can be a danger to anyone, as can a cup of hot coffee or a pot of boiling water, but

there is simply no evidence in this record that these stairs were inherently dangerous or that they involved an unreasonable risk of harm to those invited into the Ronneaus' home.

The Smiths argue that Harradon is distinguishable from the facts herein because the parents who decided to sleep with their infant on the couch caused their infant's death. 913 N.E.2d at 301. Here, in contrast, the Smiths insist that "it was the conduct of the homeowners in closing all the hallway doors which made the stairway hazardous." Reply Br. p. 4. We do not agree that this is a compelling distinction. In finding that the sofa was not a dangerous condition, the Harradon court focused solely on the nature of the object rather than on the behavior of the parents. Id. Here, likewise, the nature of the condition—a hallway with four closed doors, one of which leads to a basement—is not inherently dangerous.

Additionally, we note that we do not intend to imply that the accident was Denise's fault. Sometimes, accidents happen, and this was one of those times. Neither the Ronneaus nor Denise are at fault—this was just an unfortunate accident. See Wright Corp. v. Quack, 526 N.E.2d 216, 217 (Ind. Ct. App. 1988) (holding that "[t]he mere allegation of a fall is insufficient to establish negligence, and negligence cannot be inferred from the mere fact of an accident"); Ogden Estate v. Decatur County Hosp., 509 N.E.2d 901, 903 (Ind. Ct. App. 1987) (holding that "'[f]alling and injuring one's self proves nothing. Such happenings are commonplace wherever humans go'") (quoting Alterman Foods, Inc. v. Ligon, 272 S.E.2d 327, 331-32 (Ga. 1980)). As a matter of law,

we find that the designated evidence does not establish that the Ronneaus breached their duty of care to the Smiths by closing the doors in the hallway, leaving the basement door unlabeled and locked, or having the basement light switched placed just inside the door frame. Therefore, the trial court properly entered summary judgment in the Ronneaus' favor.

The judgment of the trial court is affirmed.

DARDEN, J., and MAY, J., concur.