

STATE OF MICHIGAN
COURT OF APPEALS

JUDITH NEWMAN, Personal Representative of the
Estate of CORRINE LEVITSKY, Deceased,
Plaintiff-Appellant,

UNPUBLISHED
September 18, 1998

v

R & T MANAGEMENT, INC., WOODCREST
APARTMENTS LIMITED PARTNERSHIP, and
CIVIC CENTER PROPERTIES,

No. 204458
Oakland Circuit Court
LC No. 96-518198 NO

Defendants-Appellees.

Before: Hood, P.J., and Griffin and O'Connell, JJ.

MEMORANDUM.

Plaintiff appeals as of right from the summary dismissal of her premises liability action. MCR 2.116(C)(10). We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

A landlord has a duty to use reasonable care to protect tenants from foreseeable criminal activities in common areas inside the structures they control. *Stanley v Town Square Cooperative*, 203 Mich App 143, 149; 512 NW2d 51 (1993). This duty to protect tenants from the criminal acts of third parties exists because criminal acts can be the foreseeable result of an unreasonably dangerous condition on the land. *Id.* A dangerous condition is created on the premises that presents an unreasonable risk of harm when the landlord in control of the premises fails to exercise reasonable care to provide for the safety of the tenant. *Id.* However, the duty does not render the landlord or those in control of the premises the insurer of the safety of a tenant. *Id.* at 150. The landlord's duty is only to exercise reasonable care for the tenant's protection. Consequently, the landlord's duty does not extend to conditions from which an unreasonable risk cannot be anticipated or to dangers so obvious and apparent that a tenant may be expected to discover them. *Id.* The duty exists only when the landlord created a dangerous condition that enhances the likelihood of exposure to criminal assaults. *Id.*

Contrary to plaintiff's assertion, the robbery and stabbing in this case did not occur within a common area inside the apartment complex. A common area is that portion of a landlord's premises in

which the landlord has retained exclusive possession, *Stanley, supra* at 149, but has been provided by the landlord for the regular use of the landlord's tenants and their guests in furtherance of the enjoyment of the tenancy. Common areas of a landlord's structures include bbbies, hallways, stairways, and elevators. *Holland v Liedel*, 197 Mich App 60, 62; 494 NW2d 772 (1992). Although the manager's office was open for the use of the tenants, the office was also open on a regular basis for use by any member of the general public interested in renting an apartment in the complex. In other words, the manager's office constitutes a business premises open to the general public and used to solicit the general public for new tenants for the complex. Moreover, this case is not one where it can be said that the landlord created a dangerous condition that enhanced the likelihood of criminal activity, such as by failing to install locks on doors or providing adequate vestibule lighting, *Stanley, supra* at 150, but instead, this case is one in which the landlord, as the owner of the business premises, failed to take more effective safety measures to protect those on the business premises. A suit may not be maintained on the theory that the safety measures are less effective than they could or should have been. *Scott v Harper Recreation, Inc*, 444 Mich 441, 452; 506 NW2d 857 (1993).

Affirmed.

/s/ Harold Hood

/s/ Richard Allen Griffin

/s/ Peter D. O'Connell