

STATE OF MICHIGAN
COURT OF APPEALS

CAROLYN WATSON,

Plaintiff-Appellant,

v

ST. JOHN HOSPITAL,

Defendant-Appellee.

UNPUBLISHED

September 22, 1998

No. 201742

Wayne Circuit Court

LC No. 96-615318 NO

Before: Whitbeck, P.J., and McDonald and T. G. Hicks*, JJ.

MEMORANDUM.

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

Viewing the documentation supplied by the parties in support of, and in opposition to, the motion for summary disposition in a light most favorable to plaintiff, *Quinto v Cross & Peters Co*, 451 Mich 358, 362; 547 NW2d 314 (1996), there is no evidence of how the lettuce got on the stairwell floor or of defendant's actual knowledge of the presence of the lettuce on the floor before plaintiff's fall. *Serinto v Borman Food Stores*, 380 Mich 637, 640-641; 158 NW2d 485 (1968); *Suci v Mirsky*, 61 Mich App 398, 401-403; 232 NW2d 415 (1975). Moreover, neither party presented documentation from which it can be reasonably inferred that the lettuce was dropped by an employee of defendant or that the lettuce had been on the floor for a sufficient length of time that defendant should have had actual knowledge of it. *Suci, supra*. The documentation that the parties supplied does not remove either of the following from the realm of conjecture: (1) whether defendant had actual or constructive knowledge of the lettuce, and (2) whether an employee or agent of defendant was responsible for dropping the lettuce. Therefore, plaintiff failed to establish that there was a question of material fact regarding defendant's alleged breach of duty. Defendant is thus entitled to judgment as a matter of law. *Quinto, supra*, 362-363; *Berryman v K-mart Corp*, 193 Mich App 88, 92; 483 NW2d 642 (1992).

* Circuit judge, sitting on the Court of Appeals by assignment.

Affirmed.

/s/ William C. Whitbeck

/s/ Gary R. McDonald

/s/ Timothy G. Hicks