

STATE OF MICHIGAN
COURT OF APPEALS

KIM DANDRIDGE,

Plaintiff-Appellant,

v

GLEEOR, INC.,

Defendant-Appellee.

UNPUBLISHED

November 17, 1998

No. 203735

Wayne Circuit Court

LC No. 96-627901 NI

Before: Young, P.J., and Wahls and Jansen, JJ.

MEMORANDUM.

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

Assuming without deciding that the provision in the snow removal contract that required the contracting parties to meet to clarify the terms of the contract allowed for an oral agreement between the parties that defendant would automatically apply de-icing chemicals to the premises of plaintiff's employer without being summoned by the Administrative Services Manager whenever an "ice storm" occurred overnight, plaintiff failed to demonstrate the existence of a genuine issue of material fact with regard to whether such an agreement was actually made. Although the Administrative Services Manager testified that he and defendant had an understanding with regard to defendant's obligation to apply de-icing chemicals after an "ice storm," he repeatedly qualified this testimony by indicating that he did not remember talking with defendant's owner about de-icing after ice storms, that he "may have" discussed de-icing after ice storms with defendant's owner and that he must have discussed de-icing following an ice storm because he remembered discussing salting with defendant's owner. In light of this qualifying testimony, whether an understanding existed between the Administrative Services Manager and defendant's owner concerning de-icing following an ice storm falls within the realm of speculation and conjecture. *Smith v Globe Life Ins Co*, 223 Mich App 264, 273; 565 NW2d 877 (1997); *Libralter Plastics, Inc v Chubb Group Of Ins Cos*, 199 Mich App 482, 486; 502 NW2d 742 (1993). Speculation and conjecture are insufficient to raise a genuine issue of material fact. *Smith, supra*; *Libralter Plastics, supra*.

Affirmed.

/s/ Robert P. Young, Jr.

/s/ Myron H. Wahls

/s/ Kathleen Jansen