

STATE OF MICHIGAN
COURT OF APPEALS

JESSICA DONEY, a minor, by her Next Friend
KEITH DONEY,

UNPUBLISHED
March 1, 2002

Plaintiff-Appellant,

v

No. 231004
Marquette Circuit Court
LC No. 98-034980-NO

ALGER-MARQUETTE COMMUNITY ACTION
BOARD,

Defendant-Appellee,

and

OUR REDEEMER LUTHERAN CHURCH,

Defendant.

Before: Bandstra, P.J., and Murphy and Murray, JJ.

MEMORANDUM.

Plaintiff appeals as of right the order granting defendant board's motion for directed verdict and summary disposition. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Jessica Doney was injured by a falling table when she was attending a wake at Our Redeemer Lutheran Church. The table was owned by the church, and used by defendant board's Head Start program. Plaintiff brought this negligence action, asserting that defendant should have known that the table presented an unreasonable risk of harm. The trial court granted a directed verdict, finding that defendant did not owe plaintiff a duty.

The evidence and all reasonable inferences from that evidence are reviewed in a light most favorable to the nonmoving party when reviewing a motion for a directed verdict. *Kubczak v Chemical Bank & Trust Co*, 456 Mich 653, 663; 575 NW2d 745 (1998). Summary disposition is appropriate where a plaintiff has failed to establish a prima facie case of negligence. *Richardson v Michigan Humane Society*, 221 Mich App 526, 528; 561 NW2d 873 (1997). A prima facie case of negligence requires that the plaintiff demonstrate that (1) the defendant owed a duty to the plaintiff, (2) defendant breached the duty, (3) the defendant's breach of duty proximately caused the plaintiff's injuries, and (4) the plaintiff suffered damages. *Id.*

Duty is a legally recognized obligation to conform to a specific standard of care toward another. *Halbrook v Honda Motor Co, Ltd*, 224 Mich App 437, 440-441; 569 NW2d 836 (1997). Whether defendant had a duty to protect plaintiff depends on the relationship between the parties, the nature and foreseeability of the risk, and any other relevant considerations. *Id.*, 442.

Plaintiff failed to show a duty on the part of defendant. The premises and the table were owned by the church. Defendant did not have exclusive use of the table, and the church directed defendant how to use the table. Defendant had neither possession nor control of the table. *Johnson v Davis*, 156 Mich App 550, 553-554; 402 NW2d 486 (1986). Therefore, the order granting defendant board's motion for directed verdict was proper.

Affirmed.

/s/ Richard A. Bandstra
/s/ William B. Murphy
/s/ Christopher M. Murray