

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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CHRISTINA STOWE, Individually and as Next  
Friend of RAINA ALLEN, a Minor,

UNPUBLISHED  
December 6, 2002

Plaintiff-Appellant,

V

No. 237689  
Marquette Circuit Court  
LC No. 01-038159-NI

DONALD W. GIACKINO, d/b/a SUPERIOR  
PROPERTIES,

Defendant-Appellee.

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Before: Markey, P.J., and Saad and Smolenski, JJ.

PER CURIAM.

Plaintiff appeals by right the trial court's order granting defendant's motion for summary disposition. We reverse. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff and defendant entered into a residential lease agreement pursuant to which plaintiff rented the main floor and basement of a two-story building for a one-year period. Before plaintiff entered into the agreement she expressed concern about leaky plumbing and faulty electrical wiring in the apartment. Defendant made some repairs in response to plaintiff's complaints. Shortly thereafter the building was heavily damaged by fire. Lieutenant Weymouth investigated and concluded that the fire originated in the basement ceiling in the area of a light fixture and several groups of wires.

Plaintiff filed suit alleging negligence and breach of contract/failure to warn. Defendant moved for summary disposition pursuant to MCR 2.116(C)(8) and (10), arguing that no evidence established that any action he took proximately caused the fire. Defendant relied on Weymouth's deposition testimony that the cause of the fire was a malfunction in the wiring, and on his own affidavit in which he stated that he never performed any wiring repairs at the spot that was determined to be the point of origin of the fire. In response, plaintiff emphasized she had repeatedly told defendant the plumbing and electrical systems needed repair and asserted that after the fire, the fire chief told her that defendant's electrical repairs were not up to code. The trial court granted defendant's motion, opining that plaintiff had no admissible evidence to contradict Weymouth's testimony regarding the point of origin of the fire or defendant's affidavit that he made no repairs at that point.

We review a trial court's decision on a motion for summary disposition de novo. *Harrison v Olde Financial Corp*, 225 Mich App 601, 605; 572 NW2d 679 (1997).

To establish a prima facie case of negligence, a plaintiff must prove: (1) that the defendant owed a duty to the plaintiff; (2) that the defendant breached the duty; (3) that the defendant's breach of duty proximately caused the plaintiff's injuries; and (4) that the plaintiff suffered damages. *Case v Consumers Power Co*, 463 Mich 1, 6; 615 NW2d 17 (2000). A prima facie case of negligence may be based on legitimate inferences, provided that sufficient evidence is produced to take the inferences "out of the realm of conjecture." *Ritter v Meijer, Inc*, 128 Mich App 783, 786; 341 NW2d 220 (1983).

Plaintiff argues the trial court erred by granting defendant's motion for summary disposition. She asserts that admissible evidence, specifically her deposition testimony and documentary evidence, established defendant knew the electrical and plumbing systems needed repair and created an issue of fact regarding causation. We agree and reverse. Proof of causation involves both cause in fact and proximate cause. Cause in fact requires a showing that the harmful result would not have occurred but for the negligent conduct. A plaintiff must adequately establish cause in fact in order for proximate cause to become a relevant issue. *Helmus v Dep't of Transportation*, 238 Mich App 250, 255-256; 604 NW2d 793 (1999). To show proximate cause, a plaintiff must prove that the injury was a probable, reasonably anticipated, and natural consequence of the alleged negligence. *Allen v Owens-Corning Fiberglas Corp*, 225 Mich App 397, 401; 571 NW2d 530 (1997).

In support of his motion for summary disposition defendant submitted documentary evidence establishing that the fire started at a spot where electrical wires were spliced together, and that the point of origin was not a place at which he had made repairs. Plaintiff presented evidence that established defendant was aware the electrical and plumbing systems were faulty, and specifically that open wires existed in the basement, sufficient to create a question of fact as to whether defendant made repairs at the point of origin or whether the wiring at the point of origin was faulty. Moreover, discovery was not yet complete so this motion may have been premature. *Helmus, supra*; cf. *Arias v Talon Development Group, Inc*, 239 Mich App 265, 268; 608 NW2d 484 (2000). We conclude that summary disposition was improper at this juncture and reverse and remand for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Jane E. Markey  
/s/ Henry William Saad  
/s/ Michael R. Smolenski