STATE OF MICHIGAN

COURT OF APPEALS

ANGELETTE WOODS,

Plaintiff-Appellant,

v

KOHL'S DEPARTMENT STORES, INC.,

Defendant-Appellee.

UNPUBLISHED
December 17, 2002

No. 234199
Oakland Circuit Court
LC No. 00-023549-NZ

Before: Kelly, P.J., and Jansen and Donofrio, JJ.

PER CURIAM.

Plaintiff appeals as of right from an order granting summary disposition in favor of defendant. We affirm.

Plaintiff visited defendant department store on a day when it was raining and snowing outside. After she entered the store, she approached the jewelry counter where she slipped and fell. Plaintiff did not see anything on the floor prior to the fall. When she was on the floor, she noticed a small amount of a clear liquid substance on the floor. Plaintiff claimed that she sustained injuries as a result of the fall. Plaintiff filed suit against defendant alleging negligence. Following a hearing on defendant's motion for summary disposition, the circuit court granted defendant's motion for summary disposition stating that plaintiff failed to present sufficient evidence creating a genuine issue of material fact.

Plaintiff raises only one issue on appeal. Plaintiff argues that she presented a genuine issue of material fact that defendant was negligent, and defendant knew or should have known of the hazardous condition on defendant's floor, thus, the circuit court erred when it granted summary disposition pursuant to MCR 2.116(C)(10). We disagree. We review the grant or denial of a motion for summary disposition de novo. *Haliw v City of Sterling Heights*, 464 Mich 297, 301; 627 NW2d 581 (2001). "In reviewing a motion for summary disposition brought under MCR 2.116(C)(10), we must consider the affidavits, pleadings, depositions, admissions, and documentary evidence filed in the action or submitted by the parties in the light most favorable to the party opposing the motion." *Id*. at 302. "Summary disposition may be granted if the evidence demonstrates that there is no genuine issue with respect to any material fact, and the moving party is entitled to judgment as a matter of law." *Id*.

"To establish a prima facie case of negligence, a plaintiff must prove four elements: (1) a duty owed by the defendant to the plaintiff, (2) a breach of that duty, (3) causation, and (4)

damages." *Case v Consumers Power Co*, 463 Mich 1, 7; 615 NW2d 17 (2000). "A prima facie case of negligence may be established by use of legitimate inferences, as long as sufficient evidence is introduced to take the inferences 'out of the realm of conjecture.'" *Berryman v K Mart Corp*, 193 Mich App 88, 92; 483 NW2d 642 (1992), citing *Ritter v Meijer, Inc*, 128 Mich App 783, 786; 341 NW2d 220 (1983).

A "possessor of land has a duty to exercise reasonable care to protect invitees from an unreasonable risk of harm caused by a dangerous condition" on the land. *Williams v Cunningham Drug Stores, Inc*, 429 Mich 495, 499; 418 NW2d 381 (1988). However, the duty does not extend to insuring the safety of invitees, instead, the duty is only to exercise reasonable care for the protection of invitees. *Id*. at 500. A storekeeper has the duty to provide reasonably safe aisles for customers. A storekeeper is liable for injury resulting from an unsafe condition caused by the active negligence of store employees, or if otherwise caused, where known to the storekeeper, or has existed a sufficient length of time that the storekeeper should have had knowledge of it. *Berryman, supra*, 193 Mich App 92, citing *Serinto v Borman Food Stores*, 380 Mich 637, 640-641; 158 NW2d 485 (1968).

Our review of the record reveals no evidence leading us to the inference that the liquid on the floor was the result of defendant's active negligence, that defendant was aware of the liquid, or that the liquid had been on the floor for any period of time let alone a considerable period of time such that defendant should have known of the condition. *Berryman, supra*, 193 Mich App 92. Although plaintiff concludes it was water, she could not testify regarding how it got there. Plaintiff did not remember the configuration or shape of the liquid, and testified it was only a small amount. There was no evidence of tracking of water from the vestibule area to the location of the fall such that a maintenance issue would arise or could be factually inferred. Because plaintiff did not present sufficient evidence to establish a question of fact, we find that summary disposition in favor of defendant was proper. *Haliw, supra*, 464 Mich 301.

Affirmed.

/s/ Kirsten Frank Kelly
/s/ Kathleen Jansen
/s/ Pat M. Donofrio