STATE OF MICHIGAN

COURT OF APPEALS

JAMES CALDWELL,

Plaintiff-Appellant,

v

PUBLIC STORAGE MANAGEMENT, INC,

Defendant-Appellee.

UNPUBLISHED
June 17, 1997

No. 185859
Oakland Circuit Court
LC No. 94-471195 NO

Before: Corrigan, C.J., and Young and M.J. Talbot*, JJ.

MEMORANDUM.

In this negligence action arising from plaintiff's slip and fall on defendant's premises, plaintiff appeals by right the order granting defendant's motion for summary disposition on the basis of the open and obvious danger principle. This case is being decided without oral argument pursuant to MCR 7.214(E). We affirm.

While visiting a storage unit which he rents from defendant, plaintiff slipped and fell on ice. A defendant's duty to his business invitee is not eliminated where defendant has reason to expect that plaintiff will proceed to encounter a known or obvious danger because, to a reasonable person in plaintiff's position, the advantages of doing so would outweigh the apparent risk. *Bertrand v Alan Ford, Inc*, 449 Mich 606, 612; 537 NW2d 185 (1995), quoting Restatement 2d of Torts, §343A, Comment f. Defendant cannot absolve itself of its duty to business invitees, within a reasonable time after winter precipitation, to make reasonable efforts to remove accumulated ice and snow, *Quinlivan v Great Atlantic & Pacific Tea Co*, 395 Mich 244; 235 NW2d 732 (1975), simply by relying on the fact that such ice and snow is visible. Defendant's invitees do not have to relinquish all access to their storage units during winter months or in the alternative assume the risk of personal injury. See *Haas v City of Ionia*, 214 Mich App 361, 362; 543 NW2d 21 (1996). An invitor's duty is, however, to protect an invitee from an unreasonable risk of harm; an invitor is not strictly liable nor is an invitor the insurer of the safety of invitees.

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

Reasonable minds could not differ whether the danger in this case was unreasonable. Plaintiff successfully traversed the icy area three times before he fell. On one of those trips, he carried two sawhorses to his van without incident. Plaintiff's deposition reflects that he was aware of the icy conditions. Plaintiff had no difficulty traversing the path from his truck to the storage unit and returning to his truck after completing his business. On this record, the alleged defective condition was not so unreasonably dangerous as to obviate the application of the open and obvious danger principle. Therefore, summary disposition was properly granted. *Bertrand, supra*, 449 Mich at 621.

Affirmed.

/s/ Maura D. Corrigan
/s/ Robert P. Young, Jr.
/s/ Michael J. Talbot