

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

DENISE ELEAZER, :
Plaintiff : No. 06-02635
vs. :
: CIVIL ACTION – LAW
: :
: :
DON L. GETGEN, Individually and : Defendant’s Motion for
d/b/a GETGEN EXCAVATING, : Summary Judgment
Defendant :

ORDER

AND NOW, this ____ day of December 2007, the Court GRANTS Defendant’s Motion for Summary Judgment. The Court finds Plaintiff has not provided sufficient evidence to show either that Defendant negligently plowed or salted the driveway and/or parking lot of Roseview Center or that Defendant had a duty to check for and treat any patches of ice that arose several days thereafter as the result of melting. The record submitted to the Court in support and in response to the motion for summary judgment established the following: There was a snow storm on December 15-16, 2005. Defendant plowed and salted the driveway and parking lot areas of the Roseview Center. When Defendant finished on the 16th, John Watkins, Jr., the head of maintenance, inspected the work. The areas were all clear and Mr. Watkins was satisfied with the work. Watkins Dep., pp. 13-14. On December 19, Mr. Watkins went into work early to check for patches of ice, because he was concerned the temperature was warm enough during the day before to melt some of the snow and for it to freeze overnight. Watkins Dep., pp. 15, 19. A patch of ice approximately 8” in diameter formed on the edge of the driveway. Plaintiff slipped on this patch of ice. Mr. Watkins believed he took a cup of salt and threw it on the patch of ice to

melt it.

Mr. Watkins indicated that when there was an ice or snow event, Defendant took care of plowing and salting, but patches of ice that would develop as a result of the snow melting were the responsibility of Mr. Watkins. Watkins Dep., pp. 31-32, 35.

Plaintiff did not know how long the patch of ice had been there.

Plaintiff contends Defendant either negligently salted or failed to remove the snow pile. Plaintiff, however, does not present any depositions, affidavits or other evidence in opposition to the motion for summary judgment to show that Defendant had any authority to remove snow absent a request to do so from Roseview or that for Defendant to have salted properly he had to put down so much salt that ice could not form several days later.¹

By The Court,

Kenneth D. Brown,
President Judge

cc: Timothy A.B. Reitz, Esquire
Joseph Musto, Esquire
Work file
Gary Weber, Esquire (Lycoming Reporter)

¹ Plaintiff relies on the case of Harvey v. Rouse Chamberlin, LTD, 901 A.2d 523, 527 (Pa.Super. 2006) for the proposition that there is a factual issue regarding whether a sufficient amount of salt was applied which would bar summary judgment in this case. The Court cannot agree. The Court believes the Harvey case is distinguishable because plaintiff slipped and fell on the same day that Defendants allegedly salted the area, not several days later.