IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

LEE DAWSON and ROBIN DAWSON, Plaintiffs	:	JURY TRIAL DEMANDED
vs.	:	NO. 11 – 00,622
BOWER FARMS AND EXCAVATING and JOHN SAVOY REALTY, LLC, Defendants	:	CIVIL ACTION Motions for Summary Judgment

OPINION AND ORDER

Before the court are motions for summary judgment filed by both Defendants on December 17, 2012. Argument was heard February 11, 2013.

In his Complaint, Plaintiff Lee Dawson contends he was injured when he slipped and fell on a patch of ice in the parking lot in front of his place of employment, which lot is owned by Defendant Savoy Realty and maintained (by way of snow plowing) by Defendant Bower Farms. In their motions for summary judgment, Defendants argue that the doctrine of "hills and ridges" prevents the imposition of liability against them. After review of the evidence, the court agrees that Defendants are entitled to summary judgment.

The "hills and ridges" doctrine precludes landowner liability for general slippery conditions and requires a plaintiff to prove three things:

> (1) Ice and/or snow accumulated into ridges or elevations of such a size and character that they unreasonably obstructed travel and constituted a danger;
> (2) the landowner had actual or constructive notice of the condition; and
> (3) the dangerous accumulation caused the plaintiff to fall.

See Morrin v. Traveler's Rest Motel, Inc., 704 A.2d 1085 (Pa. Super. 1997). The doctrine does not apply, however, when the hazard is not the result of a general slippery condition prevailing in the community, but of a localized patch of ice. *See* Bacsick v. Barnes, 341 A.2d 157 (Pa. Super. 1975). It has also been stated that the doctrine may be applied only in cases where the snow and ice complained of are the result of an entirely natural accumulation, predicated on the assumption that the formation is a natural phenomenon incidental to our climate. Id., citing Rinaldi v. Levine, 176 A.2d 623 (Pa. 1962).

In the instant case, Plaintiff testified in a deposition that he parked his car in the parking lot in front of his place of employment at about 8:00 a.m. on February 7, 2011, a Monday morning, and that while walking from his car to the building he slipped on a spot in the parking lot which looked wet, but which was apparently ice. He testified that there were patches of ice "all around" in the parking lot and that he had observed "residual ice here and there" as he had traveled to work that morning. Plaintiff testified that although it had snowed earlier in the week, it had been warm the day before and there had been some melting. He testified that it was cloudy and cold that morning, but that it was not raining or snowing. He stated that "everything that had been melted, I'm assuming had just frozen over". The person who had plowed the lot for Bower Farms testified in a deposition that he had plowed snow on February 1 and 2 and that all of the snow had been pushed to piles outside of the parking lot area.

The court believes this evidence to show only general slippery conditions prevalent in the community, and not a localized patch of ice, or an accumulation which created a dangerous condition. Plaintiff has offered no evidence that any act of Defendants caused the ice on which he fell. The plowing was done five days before the fall, the snow plowed was pushed out of the parking lot into an area separate from the area in which Plaintiff fell, and there is nothing else to suggest that the ice resulted from the plowing. Plaintiff's own testimony establishes that the patch was not "isolated", but prevalent in the parking lot and in the community, observable as he drove to work that morning.

Plaintiff argues nevertheless that summary judgment is not appropriate, citing Harvey v. Rouse Chamberlain, Ltd., 901 A.2d 523 (Pa. Super. 2006), Liggett v. Pennsylvania's Northern Lights Shoppers City, Inc., 75 Pa.D.&C.4th 322 (Beaver Co. 2005), Bacsick v. Barnes, 341 A.2d 157 (Pa. Super. 1975), and Tonik v. Apex Garages, Inc., 275 A.2d 296 (Pa. 1971). None of these cases supports Plaintiff's position, however, are all are factually distinguishable. In Harvey, the evidence showed that on the day of the fall, it had just stopped snowing and the road in question had just been plowed and salted by the defendant immediately prior to the fall, and further suggested that sufficient salt had not been applied, thus causing the ice on which the plaintiff fell. The court concluded that because of the plowing and salting, the ice could not have been the result of an entirely natural accumulation. In Liggett, a five-inch snowfall had

just ended and the parking lot had just been plowed the day of the fall. An expert witness provided an opinion that the patch of ice on which the plaintiff fell had been caused by the plowing, salting, dilution and refreezing. The court pointed to the expert opinion to conclude that the ice was not due to a natural accumulation, and further described the patch of ice as "isolated". In Bacsick, a 12 to 15-inch snowfall two days earlier had been plowed into mounds or ridges on the sidewalk so as to make the sidewalk inaccessible. When the plaintiff was forced to walk in the street, she was hit by a car. The court concluded that the snowbank was not a natural condition, having been placed there by the plowing. Finally, in Tonik, the plaintiff fell on ice which had accumulated in a crack in the sidewalk. The court found from the evidence that such ice was a "localized patch" on a sidewalk which was otherwise free of ice and snow and that there were not general slippery conditions in the community. Although Plaintiff herein contends the ice on which he fell was "an isolated patch", his own testimony belies that contention.

Accordingly, Plaintiff's evidence showing nothing more than that the ice was a result of general slippery conditions prevailing in the community, summary judgment in favor of both Defendants is appropriate.

ORDER

AND NOW, this 12th day of February 2013, for the foregoing reasons, both motions for summary judgment are hereby GRANTED.

BY THE COURT,

Dudley N. Anderson, Judge

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Hon. Dudley Anderson