

IVIN COOK, JR.,  
*Plaintiff*

No. 16 - 466

v.

AVE ENTERPRISES, LLC,  
*Defendant*

NON-JURY TRIAL

**OPINION AND VERDICT**

This is a personal injury claim by a tenant who fell down exterior steps while exiting his second floor apartment. Following a non-jury trial held this date, the Court makes the following findings of fact, conclusions of law, and verdict.

**FINDINGS OF FACT**

1. Plaintiff was not credible in light of his inconsistent and contradictory testimony, his crimen falsi conviction, his repeated statements of bad memory and exaggeration.
2. Plaintiff Mr. Cook did not prove that defendant had notice of a dangerous condition.
3. No complaints were made about the steps being slippery when wet or about problems with the gutter to Ave Enterprises, LLC.
4. At times the bottom of the downspout was out, but this was not constant but instead intermittent.
5. There was insufficient evidence to support Mr. Cook's claim that there was a dangerous condition on the steps that Ave Enterprises, LLC, knew or should have known about and corrected or posted warnings.
6. Plaintiff failed to prove that defendant was negligent.
7. In light of preexisting conditions, lack of prompt treatment and a subsequent fall, plaintiff did not prove by a preponderance of the evidence that he was injured on the date of the alleged fall.

8. Even if he had suffered injury, Mr. Cook's own negligence in not looking down at the steps, and failing to take hold of the rail, report the condition to his landlord, and traversing with a one year old child and diaper bag was the cause of greater than fifty percent of any harm he may have suffered.

#### **CONCLUSIONS OF LAW**

1. Mr. Cook has not met his burden of proof in his negligence claim of personal injury against his landlord, Defendant, Ave Enterprises, LLC.
2. Mr. Cook, a tenant residing at the property, was owed a duty as a licensee.
3. Ave Enterprises, LLC was not negligent.
4. Ave Enterprises LLC was not aware of nor should have been aware of the steps being slippery.
5. Mr. Cook did not prove that negligence by Ave Enterprises, LLC's negligence, was the factual cause of any harm suffered by Plaintiff, Irvin Cook.
6. Mr. Cook fell due to his own negligence.
7. Mr. Cook was negligent in descending the steps and that negligence cause more than fifty percent of his harm.

Accordingly, the Court enters the following verdict.

**VERDICT**

AND NOW, this **26<sup>th</sup>** day of **January 2018**, after a non-jury trial, verdict is entered in favor of the Defendant Ave Enterprises, LLC and against Plaintiff Irvin Cook, Jr.

BY THE COURT,

January 26, 2018  
Date

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Richard A. Gray, J.

c: Robert Seiferth, Esquire  
Patrick J. Hughes, Esquire  
1170 Highway 31, Suite 1, Plains, PA 18702