



IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CECIL JENKINS,
Appellant,
vs.
STEPHEN GUTHRIE,
Respondent.

No. 89538-COA

ORDER OF AFFIRMANCE

Cecil Jenkins appeals from an order granting summary judgment in a negligence action. Eighth Judicial District Court, Clark County; Hon. Jacob A. Reynolds, Judge.

Jenkins filed a complaint for negligence against respondent Stephen Guthrie, alleging he was injured while walking down two garage steps that lacked a handrail at a residence owned by Guthrie. The parties participated in discovery, including sitting for depositions. Guthrie disclosed a construction and accident reconstruction expert witness, and Jenkins disclosed a property manager expert witness. Following the completion of discovery, Guthrie filed a motion for summary judgment, arguing primarily that Jenkins failed to demonstrate the steps constituted a hazardous condition such that Guthrie violated a duty of care. Jenkins opposed the motion, arguing genuine disputes of material fact existed as to whether the steps were hazardous and Guthrie's knowledge of the hazardous condition. The district court ultimately granted Guthrie's motion for summary judgment, determining, among other things, that the undisputed facts demonstrated that the steps did not constitute a hazardous condition. This appeal followed.

On appeal, Jenkins challenges the district court's grant of summary judgment and argues he established the existence of a genuine dispute of material fact as to the hazardous condition of the steps. He also contends that the district court erroneously determined that he did not establish a genuine dispute of fact based on his failure to present an expert witness concerning the safety of the stairs, as he asserts such an expert was unnecessary because the dangerous condition fell within the common knowledge of laypersons.

We review the district court's decision to grant summary judgment de novo. *Wood v. Safeway, Inc.*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005). “[W]hen reviewing a motion for summary judgment, the evidence, and any reasonable inferences drawn from it, must be viewed in a light most favorable to the nonmoving party.” *Id.* A motion for summary judgment shall be granted if the moving party shows that, construing all the facts in the light most favorable to the moving party, there is no genuine dispute of material fact, such that the movant is entitled to a judgment as a matter of law. NRCP 56(a); *Wood*, 121 Nev. at 731, 121 P.3d at 1031.

“A claim for negligence in Nevada requires that the plaintiff satisfy four elements: (1) an existing duty of care, (2) breach, (3) legal causation, and (4) damages.” *Turner v. Mandalay Sports Ent., LLC*, 124 Nev. 213, 217, 180 P.3d 1172, 1175 (2008). “[L]andowners bear a general duty of reasonable care to all entrants.” *Foster v. Costco Wholesale Corp.*, 128 Nev. 773, 781, 291 P.3d 150, 156 (2012). However, “[t]he owner or occupant of property is not an insurer of the safety of a person on the premises, and in the absence of negligence, no liability lies.” *Sprague v. Lucky Stores*, 109 Nev. 247, 250, 849 P.2d 320, 322 (1993). Thus, if the owner has acted within the standard of ordinary care, they cannot be held liable for an accident such as a slip and fall

on its property. *Rodriguez v. PNS Stores, Inc.*, No. 2:19-CV-244 JCM (VCF), 2020 WL 13535368, at *2-3 (D. Nev. May 15, 2020) (Order); *see also Sprague*, 109 Nev. at 250, 849 P.2d at 322 (“An accident occurring on the premises does not of itself establish negligence.”).

Nevada courts ordinarily impose liability on landowners for accidents involving dangerous conditions. *See Foster*, 128 Nev. at 781, 291 P.3d at 156. “Where an alleged harm involves conduct that is not ‘within the common knowledge of laypersons,’ the applicable standard of care ‘must be determined by expert testimony.’” *Boesiger v. Desert Appraisals, LLC*, 135 Nev. 192, 195, 444 P.3d 436, 439 (2019) (quoting *Daniel, Mann, Johnson & Mendenhall v. Hilton Hotels Corp.*, 98 Nev. 113, 115, 642 P.2d 1086, 1087 (1982)).

In this case, Jenkins alleged that he slipped on steps leading to the garage from inside the residence and that Guthrie was negligent for applying a slippery coating to the steps and for failing to maintain them and install a handrail. Jenkins maintained the steps had a “slickness” but did not testify that a liquid or foreign substance was present at the time he fell. Guthrie, however, testified the coating applied to the steps was an anti-slip, gritty epoxy coating and disclosed a construction expert witness, who inspected the steps in person and opined the steps complied with the relevant building code and did not require a handrail. Although Jenkins presented his own expert witness, she was a property manager who confined her opinion to property management obligations and rights of both landlords and tenants and did not inspect the steps herself; rather, her review was limited to seeing a video recording of the location.

Even taking the evidence in the light most favorable to Jenkins, we conclude he failed to establish the steps constituted a dangerous condition

because a layperson does not have the knowledge of the proper application of epoxy coating and maintenance of the steps and Jenkins' statements as a layperson concerning the steps was thus insufficient to create a genuine dispute of material fact. *See Breaux v. Radiology Partners Nevada LLC*, No. 86861-COA, 2024 WL 2747977, at *4 (Nev. Ct. App. May, 28 2024) (Order of Affirmance) ("As [the plaintiff] conceded that there was no trash, debris, or liquid on the floor that caused her to fall, she needed an expert to establish that the floor constituted a dangerous condition when dry, because a lay person does not have the knowledge of the proper 'slipperiness' of a floor under these circumstances."). Similarly, a layperson does not have the knowledge of the applicable building codes, and Guthrie's expert witness opined that such building codes did not mandate that the steps have a handrail. Moreover, although Jenkins disclosed an expert witness, as the district court determined, his expert did not examine the steps, refute Guthrie's expert testimony that a handrail was not required by law, or provide evidence that established the epoxy was applied negligently or utilized the wrong materials and therefore did not establish that Guthrie fell below the standard of care. *See Boesiger*, 135 Nev. at 195, 444 P.3d at 439; *see also Rodriguez*, 2020 WL 13535368, at *5 (granting summary judgment in a case where the plaintiff slipped on a "very shiny and very slippery" floor and concluding that, in order to create a genuine dispute of material fact, the plaintiff must set forth specific, competent evidence showing the defendant applied an excessive amount of wax or was otherwise negligent). And Jenkins' general allegations were thus insufficient to demonstrate the existence of a genuine dispute of material fact. *See Wood*, 121 Nev. at 731, 121 P.3d at 1030-31 ("[T]he non-moving party may not rest upon general allegations and conclusions . . ."). Without evidence demonstrating that the steps constituted a dangerous condition, we conclude

the district court did not err in granting Guthrie's motion for summary judgment because Jenkins failed to raise any genuine disputes of material fact supporting the existence of a dangerous condition for which Guthrie owed Jenkins a duty to address thereby giving rise to negligence. Accordingly, we

ORDER the judgment of the district court AFFIRMED.¹



Bulla, C.J.



Gibbons, J.



Westbrook, J.

cc: Hon. Jacob A. Reynolds, District Judge
Thomas J. Tanksley, Settlement Judge
Olson, Cannon, Gormley, & Stoberski
Simon Law
Eighth District Court Clerk

¹Jenkins also argued he established a genuine dispute of material fact as to Guthrie's constructive notice of the purportedly hazardous condition. However, because we conclude Jenkins failed to establish a genuine dispute of material fact with regard to the steps being hazardous, we need not address this contention. *See Harrington v. Syufy Enters.*, 113 Nev. 246, 248, 931 P.2d 1378, 1380 (1997) (providing summary judgment is proper when the defendant negates at least one element of negligence as a matter of law).