

IN THE SUPREME COURT OF NOVA SCOTIA

Citation: Corbin v. Halifax Regional Municipality - 2003 NSSC 121

Date: 20030606
Docket: S.H. No. 142791
Registry: Halifax

Between:

Donna Lynn Corbin

Plaintiff

-and-

Halifax Regional Municipality

Defendant

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Judge: The Honourable Justice Robert W. Wright

Heard: April 1-3, 2003 in Halifax, Nova Scotia

Written

Decision: June 6, 2003

Subject: Occupiers' Liability - slip and fall accident

Summary: After attending an aquafit class in the swimming pool at the Sackville Sports Stadium, and then showering, the plaintiff slipped and fell on the lavatory floor of the ladies change room as she stepped away from a hair dryer, whereby she sustained a chronic soft tissue injury. She brought an action under the *Occupiers' Liability Act*, alleging that the defendant was negligent in three primary respects:

- (a) By installing floor tiles in the lavatory area that were lacking in slip resistant qualities and which became unsafe when wet;
- (b) By failing to monitor and maintain an adequate system for the draining of water which collected on the floor of the lavatory area; and
- (c) By failing to place signs or pylons in the lavatory area to warn users of the facility of the slipperiness of the floor when wet.

The plaintiff knew that water was usually present on the lavatory floor in the area where she fell but attributed her fall to an excessive amount of water alleged to have collected around a floor drain in her path. At the time of her fall, the plaintiff was still wearing the same gym shoes as she wore in the pool.

Issue: (1) Was the defendant negligent by failing to take reasonable care to see that users of the facility such as the plaintiff would be reasonably safe while on the premises?

(2) If so, to what damages is the plaintiff entitled?

Result: The action was dismissed. The court was not satisfied that the plaintiff's expert evidence on floor friction testing was sufficiently reliable in order to conclude that the lavatory floor tiles were unsafe when wet, especially where well over a million female persons have used the lavatory area over several years with no other slip and fall accidents ever having been reported. Furthermore, the court was not satisfied on the evidence that an excessive amount of water had been allowed to collect around the floor drain or that it was an excessive amount of water over and above that usually found that caused the fall. In any event, the court was satisfied that the defendant's cleaning and monitoring system was sufficiently adequate to discharge its duty to take such care as in all the circumstances of the case was reasonable.

Finally, the absence of warning signs in the lavatory area was not a causal factor of the accident where the plaintiff knew the floor was usually wet in that area, knew it was wet on the night she fell, and where it is common knowledge that ceramic tile floors become slippery when wet. The plaintiff had not proven on a balance of probabilities that the defendant had breached its duty to take reasonable care in the circumstances to make the premises safe.

**THIS INFORMATION SHEET DOES NOT FORM PART OF THE COURT'S
DECISION. QUOTES MUST BE FROM THE DECISION, NOT THE COVER SHEET.**
