

Is Store Liable for Shopper's Injuries from Slip-and-Fall?

SITUATION

A woman wearing 2-inch heels with leather soles enters a store to exchange an item. She has just left church and walked through a slushy parking lot on her way to the store. The store has special mats at the entrance and inside that absorb water from visitors' shoes; the mats are periodically vacuumed to suck up the water. According to store policy, workers have been frequently cleaning the floors immediately inside the store to keep them dry. In fact, a worker is mopping the mats at the front of the store when the woman arrives and he warns her to be careful. A warning cone is also placed next to the mat. The woman slips and falls while walking to the customer service desk, injuring her back and knee and requiring surgery. Managers and store personnel who rush to her aid don't see any water on the floor in that area. A manager takes photos of the area, which show that the floor was dry. And video reveals workers and other shoppers walking without mishap in the same area immediately before her fall. The woman sues the store under occupier's liability law for her injuries.

QUESTION

Is the store liable for the woman's injuries?

- A. Yes, because the incident arose out of and in the course of the store's operations.**
- B. Yes, because the store didn't take all reasonable steps to keep the floor clean and dry.**
- C. No, because the store wasn't negligent and didn't cause her injuries.**
- D. No, because the woman was only a shopper, not an employee.**

ANSWER

C. The store isn't liable because it took all reasonable steps to keep the floor clean and dry, and so didn't negligently cause her to slip and fall.

EXPLANATION

This scenario is based on a BC court decision that dismissed a shopper's lawsuit against a store following a slip-and-fall. She claimed the store was negligent under occupier's liability law. The court determined that the store wasn't negligent and didn't cause her injuries. The evidence, which included photographs and video, indicated the woman's shoes were likely wet after walking in the slushy outdoor conditions. Plus, the leather soles made the shoes slippery. There was also no evidence of water on the floor. Video showed that others had walked in the same area without incident or difficulty. Additionally, the court said the store's policies and procedures for keeping the floor as clean and dry as possible under the circumstances satisfied a "reasonable standard of safety." Therefore, the court ruled the woman's fall was "truly an accident" for which the store wasn't liable.

Is Store Liable for Shopper's Injuries from Slip-and-Fall?

WHY THE WRONG ANSWERS ARE WRONG

A is wrong because this answer loosely draws on the standard for compensability for injuries under workers' comp law, which doesn't apply in these circumstances. Under workers' comp law, an injury is compensable if it arises out of and in the course of a worker's employment activities. For example, if a store employee had slipped and fallen on a wet floor while stocking shelves, his injury would be covered by workers' comp using this standard. But in this case, the injured woman was a shopper and not a worker at the store. So it's inappropriate to apply workers' comp standards.

B is wrong because the store did, in fact, take all reasonable steps to keep the floors clean and dry despite the wet conditions outside. The store had a policy that required frequent cleaning of the floors and that policy was being followed at the time of the slip-and-fall. Additionally, the store had special mats at the entrance to absorb the moisture from visitors' feet as they entered and those mats were periodically vacuumed to remove excess moisture. Finally, the store warned shoppers of any potential hazard with the use of a warning cone. And a store worker verbally warned the woman as she entered. Thus, the store did take all reasonable steps to avoid any risk of injury for those entering the premises and isn't liable for the woman's slip-and-fall.

D is wrong because the fact that the woman wasn't an employee makes no difference as her lawsuit claims liability under occupier's liability law. Employers owe duties to different classes of people under different laws. For example, the OHS laws impose a duty on employers to protect the safety of their workers. Occupier's liability laws impose a duty on the occupiers of property to take reasonable care under the circumstances to make their premises safe for all visitors. Under that law, the store in this case had a duty to all visitors—including the woman—to address slippery conditions on its site. So although the woman isn't an employee, the store had a duty to take reasonable care to keep its premises safe for her, which it fulfilled.

Source: Hanes v. Loblaws Inc., [2017] BCSC 102 (CanLII), Jan. 23, 2017