[2022] JMSC Civ 86

IN THE SUPREME COURT OF JUDICATURE OF JAMAICA

IN THE CIVIL DIVISION

CLAIM NO. 2016 HCV 02656

BETWEEN	**VALROSE HEWITT**	**CLAIMANT**
AND	**PORT MARLEY LTD**	**DEFENDANT**

IN OPEN COURT

Mr. Leonard Green and Ms. Rena Grant instructed by Chen Green & Co. Attorneys-at-Law for the Claimants

Ambassador Stewart Stephenson and Ms. Tiffany Campbell instructed by Kingston Stephenson & Co Attorneys-at-Law for the Defendant

HEARD: JUNE 14-16, 2022

Negligence – Contributory Negligence – Pleadings – Whether Contributory Negligence Properly Pleaded – Whether Court can consider contributory negligence if not properly pleaded

Negligence – Employer's Liability – Duty to Have and Maintain a Safe Place of Work – Whether or not Employer Breached Duty to Have and Maintain a Safe Place of Work – Was the floor of the Defendant's premises in an unsafe condition for workers?

Negligence – Employer's Liability – Duty to have and implement a safe system of work – Whether it was reasonable to impose duty on the Defendant to provide nonslip shoes to the Claimant for carrying out duties – Whether Defendant failed to inspect shoes of the Claimant prior to Claimant carrying out duties – Whether system of work reasonably safe

DALE STAPLE J (Ag)

BACKGROUND

[1] The Claimant was a housekeeper employed to the Defendant at their hotel known as Riu Palace Tropical Bay in Negril Jamaica. She was born in 1974 which would have made her 40 at the time of this incident.

[2] The Claimant alleges that whilst she was doing her housekeeping duties on the 15th May 2014 on the Defendant's premises known as Riu Palace Tropical Bay, she was assigned to clean a "pick up room" on the property.

[3] According to the Claimant, she was transporting the materials and equipment needed to carry out her duty when she slipped and twisted her left ankle, lost her balance and fell on what she alleges was the slippery tile surface of the floor. In her Particulars of Claim at paragraph 3 she contends that the floor is a "high gloss tile surface" and at paragraph 4 she asserted that she "slipped on the slippery floor surface".

[4] The Claimant contends that she was wearing sneakers that she had purchased for herself as she was not provided with shoes by the Defendant to do work in "those circumstances" (see paragraph 6 of her witness statement). She also asserted that she had previously seen other staff members experience similar incidents.

[5] The Claimant claims she was seriously injured by the fall and suffered serious back problems as a result and these problems are persisting even until now. She therefore instituted the instant claim to recover damages for Negligence under the principles of employer's liability.

[6] For it's part, the Defendant admitted that the incident occurred (paragraph 2 of the Amended Defence) but strongly denied liability. Curiously, they also asserted *volenti non fit injuria*. This was never relied on by them in submissions and so will not be considered. However, they asserted that the tiles were not slippery nor even high gloss and she was never assigned to clean any "pick up" room as no such room exists at the property.

[7] They also assert that the Claimant herself, in an incident report, did not assert that her fall had anything to do with the state of the floor of the hotel. Indeed, the Defendant says that the fall was due to the negligence of the Claimant herself. The Defendant denied receiving any previous reports of slipping incidents by any other employee.

[8] So the task of the Court is to determine whether or not the Defendant is liable to the Claimant for causing the injuries that she says she suffered as a result of this fall on the Defendant's property. If they are found liable, the Court is then to determine the compensation due to the Claimant.

[9] It is important to bear in mind that it is the Claimant that bears the legal and evidential burden throughout the case to satisfy me that it is more likely than not that the Defendant owed her a duty of care as her employer and it was the failings of the Defendant to fulfil their duty of care to her as her employer that led to the injury and loss suffered by her.

[10] The Defendant also has a duty to put sufficient evidence before the Court of the negligence of the Claimant to demonstrate that she contributed to her own demise. Curiously, though pleading negligence in paragraph 5 of the Amended Defence, the Defendant has pleaded no particulars of negligence of the Claimant. Therefore, this Court does not consider that contributory negligence was properly raised by the Defendant[1].

[1] See Belizian Court of Appeal decision of *Madrid Cruz v Jose Alvarenga and Wendy Hernandez* (Civil Appeal No 15 of 2011, delivered 28 June 2013) per Morrison JA at para 75-79. This authority was expressly relied upon and adopted by our Court of Appeal in the decision of *Clarke v Howell* [2020] JMCA Civ 3 and is therefore part of our common law in Jamaica. So for contributory negligence to be considered properly pleaded, not only must it be asserted that the Claimant was negligent, the negligence of the Claimant must be sufficiently particularised to enable a Claimant to deal with the specific contributory factors being alleged against him.

FACTS

[11] The Claimant was just past her 40th year when this unfortunate incident occurred. She had been employed to the Defendant as a housekeeper since November 2013. She was employed as a casual worker. Clearly, she had not been there for a long period of time before the incident happened. Her evidence, which was accepted and I so find, was that she was only there for 6 months at the date of the incident.

[12] The Defendant is a hotelier and operated and occupied the Riu Palace Tropical Bay in Negril – that tourism mecca in western Jamaica.

[13] It was the late afternoon on the 15th May 2014. The Claimant was going about her duties when she claims she was tasked with cleaning the 'pick up room" on the second floor of the property. She was wearing her assigned work uniform and what she called "regular" sneakers she had bought herself as she claims the Defendant never provided her with proper footwear to work in "those" circumstances.

[14] Whilst transporting the materials and equipment needed, she said she slipped and in the process twisted her ankle, lost her balance and fell on the slippery tile surface of the floor.

[15] The Court must state that there is no objective evidence from either side as to the nature of the flooring material. There are no photographs of the floor at the time of the incident. There are no videos. Nothing. This is most unfortunate as the Court cannot properly determine what the nature of the flooring material was at the time of this incident. The fact that someone describes a floor as being "high gloss" or "shiny" does not mean that the surface is slippery or so slippery as to pose a hazard.

[16] It is also true that there is no evidence from the Claimant that the floor surface was wet or had any extraneous or unusual substance on it to enhance it's slipperiness or increase its hazardous nature to an unsuspecting person.

[17] The Claimant contended in her evidence that she has seen other members of staff experience similar incidents. However, she has produced no objective evidence of these other incidents and the only incident to which she referred in her evidence happened on a different block from the one on which she fell. The Defendants have denied receiving any such reports of previous falls.

[18] The Defendant's case is simple – they admit the Claimant had a fall on their property on the day in question; but it was not their fault she fell. The tile was not of a high gloss surface nor was it slippery and the Claimant was not assigned to clean any "pick up" room as no such room exists. In fact, they asserted in the amended defence that the Claimant provided an incident report on the 18th June 2014 wherein they assert that the Claimant described the incident as happening when she came off the stair case on the second floor heading towards room 2217 and she fell as her foot twisted under. Despite saying that the report was attached to the defence, it was not. Whilst it was disclosed in the Defendant's List of Documents, it has not formed part of any notice of intention to tender on the part of the Defendant.

[19] The Defendants also denied that they have received any slip and fall incident reports from any other employees. They also assert that the Claimant was properly trained and told the proper shoes she was to wear when conducting her duties as a housekeeper and this was to be monitored by her supervisors.

ISSUES AND ANALYSIS OF ISSUES

[20] For convenience, the Court will group the specific issues and analysis of the identified issues together. The submissions of counsel will be analysed in each issue raised. The Court is grateful to counsel for their helpful oral and written arguments presented and where not specifically mentioned, it is not to be taken as an indication that they were not read and considered.

How did the Claimant Fall?

[21] An important question of fact to resolve is *how* the Claimant fell. It is not disputed that she fell, but the reason for her falling is crucial to coming to any conclusion in this case. This is so as the Claimant is asserting that her fall was due to her slipping on the Defendant's tiles that were slippery.

[22] There are no independent eye witnesses, nor is there any other objective evidence of the fall. So the question comes down to whether I accept the evidence of the Claimant or not as to how she fell.

[23] The Claimant, in her Amended Pleadings, said that she was transporting the materials and equipment needed to do her cleaning chores along the passage adjacent to the room that she was assigned to clean when she slipped on the high gloss tile surface of the floor, lost her balance and fell.

[24] In her evidence in chief at paragraph 5 of her Witness Statement, she said that she slipped and in the process twisted her left ankle, lost her balance and fell on the slippery tile surface landing on her bottom.

[25] In their Amended Defence, the Defendant's claim that the Claimant submitted an injured person report dated June 18 2014 in which the Claimant asserted that she came off the stair case on the second floor heading towards room 2217 and fell as her foot "twisted under".

[26] The said report was admitted into evidence with the consent of Mr. Green as exhibit 1. Mr. Green submitted that the Defendant should not be allowed to make use of the statement of the Claimant in the report as there was no evidence that she had obtained legal advice before making it, the circumstances under which it was made raises a question of undue influence and, even if it were to be relied upon, there is no discrepancy between what she said in the report and her evidence in the witness statement.

[27] Mr. Green relied on the authority of *Gordon Stewart et al v Merrick Herman Samuels*[2] in support of the argument that the Defendant should not be able to rely on the statement made by the Claimant. Ambassador Stephenson submitted that the *Gordon Stewart* authority is inapplicable to this case as that case had to do with the Defendants/Appellants seeking to rely on a Release and Discharge executed by the Claimant/Respondent to avoid liability to the Claimant/Respondent.

[28] The case concerned an appeal against the decision of Sykes J (As he then was) when he refused an application for summary judgment brought by the 2nd and 3rd Appellants against the Respondent seeking the early disposal of the Claim. The Court of Appeal dismissed the appeals of the 2nd and 3rd Appellants and affirmed the refusal of Sykes J (as he then was) to award summary judgment in favour of the 2nd and 3rd Appellants.

[29] The 2nd and 3rd Appellants had sought to argue that the Claimant, in signing a release and discharge and accepting the payment of the sum in the release and discharge, had entered into an accord and satisfaction agreement which was binding on him and as such he could not continue his claim against them. The Respondent argued that the release was not valid as there was undue influence exercised by the Appellants in their dealings with him.

[30] The **evidence** (emphasis mine) before the learned Judge at the hearing of the application was that the 3rd Appellants and their agents were friendly and he developed a confidence in them. That was his explanation as to why he signed the release. The learned Judge found as a fact that the Respondent could hardly read.

The Court of Appeal, however, found that, “There was no evidence that the Respondent had reposed such trust and confidence in the appellants that his will

[2] (Unreported, SCCA No. 2 of 2005 November 18, 2005)

was overcome and in that atmosphere placed reliance on them to his disadvantage.[3]" Hence, there was no undue influence.

[31] But their Lordships did find that the release and discharge amounted to an unconscionable bargain. They expressed the view that given the fact that the Respondent was a poor and uneducated person, in poor health because of his injuries and subject to and dependent on the benevolence of the 3rd Appellant, he ought to have obtained independent legal advice before entering into the contractual bargain. What made the situation worse was that the 3rd Appellants knew that the Respondent was being represented by counsel and still proceeded to enter into the agreement with the Respondent. So this *ratio* of this authority was based on the principle of unconscionable bargain in contract and not undue influence as no undue influence was found.

[32] I now turn to this case. I will set out the Injured Person Report in full below. It is to be noted that the evidence from the Claimant, which was not challenged and I accept, was that she filled out the report in her own handwriting:

RIU HOTELS & RESORTS
EMPLOYERS LIABILITY INCIDENT FORM

Injured Person Report

Name: Valrose Hewitt Occupation: Housekeeper

Home Address: Paul Island, Grange Hill P.O. Westmoreland

Date of Accident: 15/05/2014 Time of Accident:_____

Telephone No. 419-1953

(1) State what you were doing when the accident occured [sic]: When I came off the stair case on the second floor heading towards room "2217", I found myself fell [sic] to the ground, my

[3] n 5 page 9.

foot twisted under and I fell to the floor hitting my hip, the back, my groin and ankle hurts. The floor wasn't wet.

(2) Were you authorised to perform the task mentioned in (1)? Yes [ ] No [ ]

(3) (a) Did you report the accident to an authorised person? Yes [✓] No [ ] (b) (i) If yes, please complete number 4. (ii) If "no" please state the reason why:

_____

_____

_____

(c) State the name of the person to whom you reported the accident: Supervisor Terri and others in the linen room.

(4) Give the names and positions of any person who witnessed the accident:

(a) Full name of Witness (1): Elsa Dell
Position of Witness: Housekeeper

(b) Full name of Witness (2):
Position of Witness: Guest took me up.

(5) Did you return to work on the day of the accident after it happened? [ ] Yes [ ] No.

Employees Signature: V. Hewitt Date: 18/06/2014

OFFICIAL USE: RECEIVED BY:
Received by:_____ Position:_____

Date:_____

[33] There was, I find, no evidence of any undue influence, at the time when the Claimant gave and signed the statement. It is dated a month after the incident, so she would have had time to reflect. There is no evidence that she was coerced, forced or cajoled into giving the statement or made any promise or offered any favour to give the statement. There was no evidence to support an assertion that she felt herself pressured into giving the statement. There is nothing to say that this account does not represent the account the Claimant intended to give in the

report. There is no evidence to support an assertion that she needed or requested legal assistance in filling out the document.

[34] Therefore, there is a clear distinction to be made between the authority submitted by Mr. Green and this particular case. In any event, Mr. Green had no objection to the document being admitted into evidence. He cannot seek to avoid it now.

[35] What is more, the Defendant foreshadowed the document in their Amended Defence as well as disclosed it in their List of Documents. There was clear intent to rely on same. Had there been a problem, it was for the Claimant to have dealt with it from either the Case Management or the Pre-Trial Review Stage.

[36] As it turned out, the document had not been attached to the Defendant's Amended Defence that was filed and the one filed and served on the Claimant. But this is not an excuse for the Claimant. It was listed in the Defendant's List of Documents and was available for inspection. So I find therefore that the Claimant could have and should have made any challenges to the document from quite early.

[37] A key element in this case is the presence of the stair. Was there a stair or wasn't there? If so, did she fall when she stepped off the stair or not? The Claimant does not mention in her pleadings or evidence that there was a stair down which she was descending. In fact, in her cross-examination, the Claimant testified that she was going *up stairs* from the ground floor to the second floor. Further, she testified that she had moved away from the stair and was taking steps to get to the room when the incident happened.

[38] This is different from her account in the Injured Person Report and I find it is a material discrepancy that goes to the heart of the case. Her statement in the report was that it was when she *came off the stair case* (emphasis mine) on the second floor heading towards room "2217" she found herself fell [sic] to the ground. This suggests, I find, that she fell whilst stepping down from the stair.

[39] Mr. Green argued that there was no discrepancy between the statement in the Report and what she said in her witness statement and that the Claimant's witness statement is actually supporting what was said in the Report. I respectfully disagree. In the Witness Statement, Ms. Hewitt stated that she slipped and in the process, twisted her left ankle, lost her balance and fell on the slippery tile surface of the floor. There was no mention in the Report of her slipping or that the floor was slippery. Indeed, what she said in the report was that when she came off the stair, she found herself fell [sic], her foot twisted under and she fell to the floor.

[40] Another key difference is that in her evidence in Court, she gave the impression that she fell whilst walking along the corridor. The statement in the Report is that she fell whilst coming off the stair.

[41] Mr. Green submitted that the form was a form for the Defendant. While I agree with the fact that the Form is certainly headed with the name of the hotel and states "Employer's Liability Incident Form", it is still a form filled out by the Claimant. It is her statement of what took place.

[42] It is my finding that the Claimant has not presented a consistent account as to how she came to fall on the day of the incident. She has given 2 fundamentally different accounts of how she came to fall on the day in question and both have not been reconciled. Not even in re-examination did Mr. Green seek to reconcile the accounts.

[43] In cross-examination she said she was carrying equipment in both of her hands. She had a bucket and broom in her right hand and in her left, a garbage bag with the cleaning implements and linen for the room. She said she was not using the trolley to transport the items as she claimed that no trolley was on that particular floor. But whether she used the trolley or not is not material as the fact that she had materials in her hands did not, on the Claimant's case, contribute to her falling.

[44] The suggestion from Ambassador Stephenson that she fell because she became unbalanced due to the cleaning implements in her hands is not supported by any evidence produced by him or elsewhere in the case.

[45] The Claimant did not give any evidence in Court that there was any extraneous material on the floor such as water or grease or such on which she stepped. Her statement in cross-examination about lotion or spray from guests is nothing more than grasping at a speculative straw.

[46] In the circumstances, I do not find, on the balance of probabilities, that the Claimant slipped and that she slipped on the slippery floor. That she fell is not disputed. How she said she fell in her claim, I do not find, has been proven by her on the balance of probabilities.

Duty to Have and Maintain a Safe Place of Work - Whether or not the Defendant Breached Duty to Have and Maintain a Safe Place of Work – Was the floor of the Defendant's premises in an unsafe condition for workers?

[47] It is not disputed that the Claimant was employed to the Defendant as a casual worker/housekeeper. As her employer, therefore, the Defendant would owe a duty of care to the Claimant to have and maintain a safe place of work.

[48] The authority of *Davie v New Merton Board Mills*[4] established that amongst the duties of an employer to an employee is the duty to take reasonable care for their safety in providing, amongst other things, a safe place of work and a safe system of work.

[4] [1959] 1 All ER 340

[49] The Claimant must satisfy the Court, that it was more likely than not, that the Defendant did not provide and maintain a safe place of work at the hotel and as such they breached this duty of care to her. In relation to their pleadings, the Claimant particularized this specific breach in this way at paragraphs 9e and 9f of the Amended Particulars of Claim:

> ***(a) they failed to install and use floor surface material that is not inherently dangerous; and***
>
> ***(b) they failed to provide covering or any kind of etching on the floor surface that workers, including the Claimant, are able to operate safely.***

[50] I find that the pleadings assert that the floor surface material was inherently dangerous, despite the argument of Counsel that that is not their case. So the Claimant must establish that the floor surface as existed at the time of the incident was "inherently dangerous". That is, it was, in and of itself dangerous without the addition of extraneous materials. I am not satisfied that she has.

[51] The Claimant seeks to establish the inherently dangerous nature of the floor by contending it was high gloss and slippery. There is no objective evidence of the nature of the flooring material or construction by way of photographic or video evidence or expert evidence.

[52] The fact that a floor surface is shiny or glossy to the eye does not make it inherently dangerous. I agree with the submitted authority of my learned sister Wolfe-Reece J in her decision of *Hanna-Kay James v Jamaica Urban Transit Company Limited*[5]

when she said that the use of the sense of sight that something is shiny by itself, is not indicative of a conclusion that it is in fact slippery.

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[5] [2019] JMSC Civ 213

[53] The nature of the evidence that could be used to establish that a floor is slippery and inherently dangerous may vary from case to case, but I will look at an example to illustrate the point. In the case of *Valorie Smith v UGI Group Ltd*[6] the Court accepted evidence from the plaintiff that the tiles on the floor were marble tiles polished to a sheen & minutes of meetings held by the Defendant company a month after the incident where it was conceded that the marble tiles were slippery after being polished.

[54] In this case, there is no objective evidence from the Claimant as to the floor's nature and construction material at the time of the incident. All she said at paragraph 5 of her witness statement regarding the floor surface was that she "fell on the slippery tile surface of the floor". In cross-examination she said as follows:

> 1. ***Was that the first time you were going on 2nd floor block two? No. I go all over the hotel….***
> 2. ***Was that the first time? I cannot recall now. But I work on all floors….***
> 3. ***You did not make any complaint to the managers about the floor being slippery before that day? No sir. There was no need to.***

[55] I find that the Claimant had never before complained about the slippery nature of the floor prior to the incident, despite saying she had gone on block 2 before the day of the incident. In fact, she said she never complained about the slippery floor because *there was no need to* (emphasis mine).

[56] There is no evidence from anyone else that the floor surface in the area where the Claimant fell was in fact slippery; the Claimant herself has given no evidence of her own prior slips. The Defendants' witnesses, who were not undermined in

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[6] (Unreported), Supreme Court, Jamaica, CL 1997/S-298, March 11, 2010

crossexamination, also testified and I accept, that the tiles in that area were not slippery tiles.

[57] The Defendant has given evidence through Ms. Karlene Daley, an Assistant Manager in Housekeeping for the hotel at which the Claimant worked, that the block on which the Claimant said the incident happened had no high gloss or slippery tiles. She asserted that she has not received any reports from other housekeepers about slipping and falling on corridors.

[58] Surprisingly, there is no photographic evidence from the Defendant as to the state of their tiles on that block on which the Claimant said she was injured. Whilst, they have nothing to prove, it is a more than a little odd that they wouldn't have even attempted to put forth such evidence.

[59] Ms. Rose Skinner testified in her evidence that the tiles were not high gloss. This was the exchange in cross-examination:

> ***Are you able to lend any assistance to this court as to whether the area that she was involved in had high gloss tiles? To my knowledge, none of the tiles have high gloss tiles.***
>
> ***But you are not in maintenance? But I traverse the property. I walk on the corridors. None of them have high gloss tiles.***

I accepted her evidence as being truthful. She was not shaken in cross-examination on this issue and she answered the questions in a forthright manner.

[60] One of the hotel's policies mandates that employees must wear non-skid shoes to perform their respective duties. It seems to me that the reason for this must have been because the hotel acknowledged that employees could likely slip and fall

whilst going about their duties at the hotel. But it doesn't follow from this that the flooring in the area where the Claimant fell was slippery or inherently dangerous.

[61] It is for the Claimant to prove her claim[7]. In the circumstances I am not satisfied, that it was more likely than not that the floor surface was inherently dangerous.

[62] This also affects the Claimant's assertion in paragraph 9f. The Claimant asserted that the Defendant failed to provide etching or covering on the floor surface. In my view, the Claimant would first have to satisfy the Court that such etching or floor covering was necessary in order to reduce the danger of the floor surface. She has failed so to do. The duty to provide etching or covering of the surface would only arise in a case where to do so would be reasonable in order to respond to a dangerous state of affairs.

[63] An employer fulfils his duty to provide a safe place of work by providing a place that is as safe as skill and care can make it having regard to the nature of the place. I agree with the submissions of the Defendant in this regard. The Defendant, in my view, cannot be held to be in breach of their duty to have the tiles etched or covered unless it can be shown by the Claimant that this etching or covering was necessary to make the floors safe. This she has not done as I do not find that the tiles in the area where she fell were slippery or inherently dangerous.

Whether the Defendant inspected the shoes of the Claimant prior to the Claimant carrying out duties. If not, did the failure cause the injury?

[64] The system of work described by the Defendants was that workers, such as the Claimant, who were casual workers on contracts, did not receive footwear from the company. They were given recommendations for shoes to wear. They were instructed to wear non-skid shoes. However, permanent employees were given footwear from the company. The reason for the difference in treatment according

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[7] *Wayne Ann Holdings (T/A Superplus Food Stores) v Sandra Morgan* [2011] JMCA Civ 44 per Harrison JA at para 17.

to Ms. Skinner seemed to be that the Defendant did not deem it a prudent investment to expend money on workers who were not permanent.

[65] I am satisfied, on the balance of probabilities, that this was the policy in regards to the two classes of workers. However, I am also satisfied, to the same standard, that the policy on the type of footwear was the same: it must be non-skid footwear. Ms. Skinner and Ms. Daley testified to this policy and I accept same as being true.

[66] The evidence before the Court is that the Claimant wore black sneakers to work. She denied that she was inspected in the mornings before proceeding to her duty. There is no evidence from the Defendant to contradict this statement. She was not discredited in this regard and I find it as true that her shoes were not inspected generally or on the day of the incident.

[67] To my mind, such a system cannot be considered a safe one. If it is your policy to simply give recommendations for footwear to the contract worker and you fail to inspect the footwear they obtain to see if it satisfies your requirements, then your system is inadequate. This is so in circumstances where you recognise the danger that working on the property without the proper footwear can pose and so you require the workers to have non-skid shoes.

[68] So yes, the Defendant failed in this duty. But it does not end there in terms of liability. The Claimant must prove that this breach caused the damage complained of by her. As stated earlier, I do not find that she has so proven.

[69] The Claimant admitted in cross-examination that she came to her employment with the Defendant with a bit of experience in the industry. She obtained sneakers to do her task as a housekeeper and this was the sneakers she wore all during her time of employment at the Defendant company. She never had any complaints about slipping whilst wearing same. I also do not find it likely than a worker with experience in the industry, such as the Claimant, would have purchased sneakers

that were not non-skid for use in the hotel. I find therefore that it is more likely than not that her sneakers were appropriate for use.

[70] The tiles on which she was traversing were, as I found, not slippery. And the Claimant's case was that she fell because she slipped on slippery tiles and not due to the inadequacy of the shoes.

[71] In my view therefore, even if the Defendant failed to inspect the Claimant's shoes, it was not the failure to inspect that caused the Claimant to fall on the evidence presented.

[72] I will repeat the statement from Lord Goddard CJ in the decision of ***Bell v Travco Hotel Limited***[8]

[73] *The idea that whenever an accident occurs from which an injury is sustained somebody ought to be liable is becoming far too common. A person can recover compensation, not for every injury sustained in everyday life, but only for an injury which is due to the fault of some person who owes him a duty.*

CONCLUSION

[74] I am not satisfied, on the balance of probabilities, that the Claimant has established that she fell on the 15th May 2014 as a result of any breach of duty owed her by the Defendant.

[75] There is no consistent and coherent account from her as to what caused her to fall; the flooring, I found, was not slippery in the area where she fell; and though

the Defendants failed to inspect her shoes, I do not find that it was that failure that caused the Claimant to fall.

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[8] [1953] 1 All ER 638 at 639

DISPOSITION

[76] Judgment for the Defendant with costs to be taxed if not agreed.

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Dale Staple, J