

INJURIES ON THE PREMISES: INVITEES

Fact Pattern 1:

Joe runs a cigar store in a building. Tom, who has been a customer for many years, loiters in store one day for fifteen minutes without making a purchase, and then goes to use a toilet that is used by the store's employees in the back of the store. On the way, he trips on the uneven pavement in the dark hallway. Joe argues that Tom was not an invitee, since he made no purchase on the day in question, and since the toilet was not open to the public (only intended for Tom's employees).

Fact Pattern 2:

As long as Tom has had a general business relationship with Joe, it is not required that

Tom have engaged in business at the time of his injury or even on the visit in question. Tom had been allowed to use the toilet many times in the past, and there was no indication that it was not a public toilet. Also, Tom is not blocked from obtaining invitee status merely because he made no purchase on the day in question; anyone who enters a store with the present or future intention of being a customer is an invitee, since the owner implicitly invites him for a potential business purpose. Tom continued to be an invitee when he went to use the toilet, since he had never been informed in the past that it was not for public use.

Question:

Is a person considered "an invitee" as a business visitor if he is not engaged in business at the time of his injury?

Rule

Where a negligent act increases the chances that a particular type of result would occur, and such a result does in fact occur, a court may conclude that the negligent conduct was the cause of the injury. The evidentiary standard is that it must support the proposition by a 'more likely than not' standard.

Discussion

The term "invitee" is a legal term that describes an individual that was invited onto someone else's property by the owner. If the property is a business, then the invitee is referred to, more specifically, as a business invitee. If the property is open to the public, like a public park or recreation center, then the invitee is a public invitee. The term "invitee" is important in premises



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liability cases, because it signifies the duty that is owed to that particular person if they are injured.

The property owner has a duty to make the property safe for the invitee, which includes conducting a reasonable inspection of the premises to uncover hidden dangers. The property owner also has a duty to warn the invitee of hazardous conditions that cannot be fixed. Furthermore, property owners assume a duty to rescue an invitee who falls into peril while visiting the property. However, the possessor of land is subject to liability to another as an invitee only for harm sustained while he is on the land within the scope of his invitation. Thus an invitee will no longer be an invitee if he remains on the premises for a longer period of time than reasonably necessary for the business purpose for which he has been invited.

Likewise, the visitor has the status of an invitee only while he is on the part of the land to which his invitation extends; if the invitee goes outside of the area of his invitation, he becomes a trespasser or a licensee, depending upon whether he goes there without the consent of the possessor, or with such consent.