

INJURIES ON THE PREMISES: LICENSEES

Fact Pattern 1:

Steve, a social guest in Evelyn's apartment, was injured by a cracked water faucet handle that broke in his hand. Steve asked permission to use this bathroom, and Evelyn was aware of the cracked handle, having informed the landlord of the need to repair it. Evelyn did not inform Steve of the danger, however.

Question:

Where a land occupier is aware of a concealed condition on the land involving, in the absence of precautions, an unreasonable risk of harm to those coming in contact with it, and, is aware that a person is about to come in contact with it, is the failure to warn or to repair, negligence?

Fact Pattern 2:

Ed and Charles are officers of a Masonic Lodge. Ed comes to Charles' home to discuss Lodge business. While there, Ed is attacked and stabbed by Charles' mentally ill son. Before the visit, Charles did not warn Ed of any danger that his son might pose—he believed that his son was taking his medication. In addition, he had not threatened anyone or been violent in over 10 years. Ed argues that he was an invitee, and that as such, Charles owed him a duty to use reasonable care in keeping the premises safe for him. In support of this, Ed claims that Lodge members often came to Charles' home to pay their Lodge dues.

Question:

Is Ed considered an invitee, and was there a special duty to warn him of the son's mental health issues?

Rule

A licensee is person who enters land with permission of the owner but without a purpose of conveying economic benefit on the owner of the land. Typically, a licensee is a social guest. Under tort law, if an owner of land knows in advance of a concealed dangerous condition on his land that a licensee is not aware of, he owes a duty to warn the licensee of the situation. However, unlike the duty owed to an invitee, there is not duty to inspect for unknown dangers—the land occupier does not need to take any special precautions to make the dangerous condition safe for the licensee.

Fact Pattern 1:

In this situation, Evelyn was aware of the cracked faucet and knew that Steve was about to come in contact with it when he asked to use her bathroom. A guest should reasonably be entitled to rely upon a warning of the dangerous condition, and even though technically, Steve would be considered a “licensee” as a social guest, he should be able to enjoy the same protections from potential harm that a business visitor enjoys. Evelyn put her guest at risk by failing to warn him and this constitutes negligence, on her part.

Fact Pattern 2:

Ed was a licensee, not an invitee. He was essentially a social guest, since the discussion of Lodge matters, and the payment of fees to Charles, ran to the benefit of the Lodge, not to Charles’ own benefit. Since Ed was merely a licensee, Charles has no duty to use reasonable care to keep the premises safe for him, but merely a duty to warn him of the dangers known to him. Since Charles had no reason to believe that his son would behave violently toward himself or his guest and since Charles was not receiving any economic benefit as a result of Ed’s visit, Charles will not be liable for the injuries suffered by Ed as a result of his son’s violent act.

Discussion

The main class of persons who qualify as licensees are “social guests.” Such a guest, even though he is invited by the owner, is not an “invitee,” since that term applies only to business guests and other persons identified. A social guest does not become an “invitee” even by gratuitously doing incidental services, such as washing up after a dinner party.

Property owners are required to ensure that conditions are safe for licensees, but the level of care owed licensees is lower than that owed to invitees. A property owner is only required to take reasonable care to protect licensees from any known hazards on the property and does not have a duty to inspect for and discover unknown dangers, as he/she does with invitees. It is understood that the guest takes the premises on the same footing as the owner. Since the courts presume that the licensee takes the premises on the same footing as the owner, the owner is required to use reasonable care to place the guest in the same position of relative safety as himself. This means that where the owner knows of a dangerous condition which he could reasonably anticipate that the licensee may not discover, he must warn the guest of that danger. A warning is all that is required; the owner is not obligated to remedy what he knows to be a defective condition. There is no duty to inspect the premises to find any hidden dangers and the owner is not liable if the premises are unsafe because of faulty construction.

