

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A25-1845**

Jennifer Odegaard,
Appellant,

vs.

610 MOB Partners, LLC,
Respondent.

**Filed July 6, 2026
Affirmed
Bratvold, Judge**

Hennepin County District Court
File No. 27-CV-24-11038

Eric C. Arch, Pattee, Tewksbury & Kerfeld, P.A., Minneapolis, Minnesota (for appellant)

Christopher J. Van Rybroek, The Cincinnati Insurance Company, Coon Rapids,
Minnesota; and

Michael S. Rowley, Goetz & Eckland, P.A., Minneapolis, Minnesota (for respondent)

Considered and decided by Larkin, Presiding Judge; Reyes, Judge; and Bratvold,
Judge.

NONPRECEDENTIAL OPINION

BRATVOLD, Judge

Appellant slipped and fell on an icy sidewalk outside the building in which she worked, injuring her knee. She sued respondent limited-liability corporation, which owned the building, alleging that its negligence resulted in the dangerous condition that led to her

fall. Appellant challenges the district court's order granting summary judgment in favor of respondent, arguing that genuine issues of material fact make summary judgment inappropriate. We conclude that no record evidence supports a reasonable inference that respondent had actual or constructive knowledge of the icy sidewalk or that the icy sidewalk actually resulted from the direct action of respondent or its employees. Thus, we affirm.

FACTS

Appellant Jennifer Odegaard worked for a medical-services tenant at the 610 Medical Building in Brooklyn Park (the property). Respondent 610 MOB Partners LLC (MOB) owned the property. On December 27, 2022, Odegaard slipped and fell on an icy sidewalk near the north entrance of the property, fracturing her kneecap. Odegaard was placing garbage in a waste container on the sidewalk at the time she fell.

Odegaard sued MOB. The complaint alleged that MOB was (1) "negligent in the design and construction of the entrance area" and (2) "negligent in maintaining the property and failed to provide adequate warning of the hazards present on the property." MOB moved for summary judgment, arguing that no evidence showed that "anyone knew ice formed in front of the trash cans before [Odegaard] fell" or that "MOB created the condition based on the design" of the entrance. Odegaard opposed the motion, and both parties submitted evidence in support of their positions.

We therefore summarize the record evidence in a light favorable to Odegaard, the nonmoving party. The record establishes that the property's north entrance is covered by an overhang, which has a roof drain that opens above the sidewalk. The district court and

the parties refer to the building overhang as an “awning” and the roof drain as a “downspout” or “overflow spout.” Outside the north entrance, two waste containers sat on the sidewalk that led to the parking lot. Two photographs, which Odegaard submitted in response to MOB’s motion for summary judgment, depict the north entrance, overhang, roof drain, waste containers, and sidewalk:



Davis Management Group managed the property. In a deposition, Davis Management’s senior vice president of property management, Peggy Schatz, testified that Davis Management opened the property in June 2022, six months before Odegaard’s fall.¹ Schatz testified and agreed that she and other Davis Management employees inspected the

¹ The relationship between MOB and Davis Management is somewhat unclear. Schatz initially testified that Davis Management owned the property. When asked if Davis Management owned MOB, Schatz testified that she “couldn’t give specifics” and that she did not know.

property for “cosmetic” and “maintenance” issues “[o]nce a month” without a “set time” or “schedule.”

Schatz also testified that Davis Management hired Curbside Landscape and Irrigation to remove snow and ice from the property. Schatz testified and confirmed that the written agreement between Davis Management and Curbside provided that Curbside would “shovel or snow blow and salt” the sidewalks if there was “any amount of snow or ice.”

Weather records show that, in the ten days before Odegaard fell, no significant snowfall occurred and outside temperatures remained below freezing.² These records also show that, on the day before Odegaard fell, it snowed 0.02 inches. It appears undisputed that Curbside shoveled and salted the sidewalks the same day it snowed. The record includes logs stating that Curbside plowed, shoveled, and salted the property between 1:00 p.m. and 4:00 p.m. on December 26, 2022.

Odegaard testified in her deposition that, before she fell on December 27, she “had never noticed any ice . . . directly right in front of the [waste] cans” outside the north entrance, even though Odegaard used the waste containers “almost on a daily basis.” Odegaard testified that she did not recall seeing any ice on the sidewalk outside the north entrance when she arrived at 8:00 a.m. on December 27, 2022, or when she left the property

² Weather records show that, the day before Odegaard fell, the high temperature was 12 degrees Fahrenheit. On the day Odegaard fell, the high temperature was 25 degrees Fahrenheit.

for her lunch break. Odegaard stated that the weather “was not extremely sunny” but “was a little bit wet out, a little bit snowy, a little bit of snow cover.”

As Odegaard returned from her lunch break, she walked from the parking lot toward the waste containers by the north entrance to throw away some trash. Odegaard “noticed the entire sidewalk had a little bit of dusting of snow on it,” but she “did not see any ice or anything out of the ordinary.” Odegaard fell on her left knee; she then saw ice where she “had fallen in the snow.”

A surveillance camera captured a ten-second recording of Odegaard walking to the north entrance; Odegaard fell in front of the waste containers. The quality of the video is poor and does not show the surface of the sidewalk. According to Odegaard, nobody told her there was ice near the waste containers that day, and she did not “know if anybody else in the building was aware there was ice there or not.”

Odegaard testified that she “did not know how the ice had gotten” on the sidewalk. On January 11, 2023, Odegaard gave a recorded statement to a claims adjuster about her fall. When asked if there were “any drain spouts or eaves or pipes” that caused the icy sidewalk in front of the waste containers, Odegaard responded that she was “not sure what caused the wetness in the area because it didn’t seem to be anywhere else on the sidewalk” and she did not “know what caused the ice there honestly.”

After her fall, Odegaard returned to the north entrance and saw the roof drain in the overhang. Odegaard testified that it was “actively draining” water near where she fell. She testified that the waste containers were “not directly under the spout.” But Odegaard did not recall seeing “melted snow drip from [the] awning or spout” on the day she fell and

testified that she did not feel “anything dripping on” her after her fall. Odegaard agreed that, before she fell, nobody told her about water dripping from the overhang above the north entrance or from the roof drain.

In her deposition, Schatz agreed that there was “a roof drain that drains water from the awning” above the north entrance. She added that no changes had occurred to the roof drain “since the opening of the building.” Schatz denied ever seeing “water actively flowing out of that spout” and denied that “any tenants complained about the water running from the spout before.” Schatz explained that, after Odegaard fell, Davis Management “moved” the waste containers to a place under the overhang and “away from the elements.”

After a hearing, the district court granted MOB’s motion for summary judgment. In a written memorandum, the district court determined that Odegaard “failed to demonstrate that [MOB] knew or should have known of the small patch of ice that was covered by a dusting of snow upon which she fell.” The district court also determined that Odegaard “has not shown the awning at [the property], or the overflow spout dripped water prior to her injury.” The district court concluded that “the information presented was mere supposition that would not permit reasonable persons to draw different conclusions.”

Odegaard appeals.

DECISION

Summary judgment is appropriate “if the movant shows that there is no genuine issue as to any material fact and the movant is entitled to judgment as a matter of law.” Minn. R. Civ. P. 56.01; *see also Justice v. Marvel, LLC*, 979 N.W.2d 894, 898 (Minn. 2022). Appellate courts “review a grant of summary judgment de novo, viewing the

evidence in the light most favorable to the nonmoving party and resolving all doubts and factual inferences against the moving party.” *Staub v. Myrtle Lake Resort, LLC*, 964 N.W.2d 613, 620 (Minn. 2021). But “[m]ere speculation, without some concrete evidence, is not enough to avoid summary judgment.” *Bob Useldinger & Sons, Inc. v. Hangsleben*, 505 N.W.2d 323, 328 (Minn. 1993); *see also Gradjelick v. Hance*, 646 N.W.2d 225, 230 (Minn. 2002) (“A nonmoving party cannot defeat a summary judgment motion with unverified and conclusory allegations or by postulating evidence that might be developed at trial.”). “Instead, if the nonmoving party bears the burden of proof on an issue, that party must present sufficient evidence to permit reasonable persons to draw different conclusions.” *Gradjelick*, 646 N.W.2d at 231.

“Negligence is the failure to exercise the level of care that a person of ordinary prudence would exercise under the same or similar circumstances.” *Doe 169 v. Brandon*, 845 N.W.2d 174, 177 (Minn. 2014). “To recover on a claim of negligence, a plaintiff must prove: (1) the existence of a duty of care; (2) a breach of that duty; (3) an injury; and (4) that the breach of the duty was a proximate cause of the injury.” *Id.* A district court must grant summary judgment in favor of the defendant if the record contains “a complete lack of proof on any of the four essential elements of the negligence claim.” *Funchess v. Cecil Newman Corp.*, 632 N.W.2d 666, 672 (Minn. 2001).

Here, the parties dispute MOB’s duty of care, an issue that we review de novo. *Louis v. Louis*, 636 N.W.2d 314, 318 (Minn. 2001). “A property owner has a duty to use reasonable care to prevent persons from being injured by conditions on the property that represent foreseeable risk of injury.” *Rinn v. Minn. State Agric. Soc’y*, 611 N.W.2d 361,

364-65 (Minn. App. 2000). This includes “an ongoing duty to inspect and maintain” the property to ensure that visitors are “not exposed to unreasonable risks of harm.” *Olmanson v. LeSueur County*, 693 N.W.2d 876, 881 (Minn. 2005). Property owners, however, are not “insurers of safety.” *Rinn*, 611 N.W.2d at 365. A dangerous condition poses a foreseeable risk of injury when a property owner has actual or constructive knowledge of the dangerous condition or when the property owner’s “direct actions” actually resulted in the dangerous condition. *Id.*

Odegaard argues that summary judgment was improper because genuine issues of material fact require that a jury determine whether MOB had actual or constructive knowledge of the icy sidewalk or whether MOB’s direct actions caused the icy sidewalk. We address each issue in turn.

I. No record evidence supports a reasonable inference that MOB had actual knowledge of the icy sidewalk before Odegaard fell.

A property owner has the duty to use reasonable care to protect visitors from “conditions on the property that represent foreseeable risk of injury,” including any known dangerous conditions. *Id.* at 364-65. Odegaard contends that the evidence shows that Curbside “shoveled and salted the sidewalk” the day before she fell and that “it had not snowed or gotten above freezing since the day before.” Odegaard seems to suggest that Curbside left the icy sidewalk untreated when it shoveled and salted before Odegaard’s fall. MOB counters that no evidence shows that “anyone associated with [MOB] actually knew this ice patch existed before Odegaard encountered it” or that “there were issues with ice in this area before” Odegaard’s fall.

We agree with MOB. No record evidence supports a reasonable inference that MOB or its employees knew about the icy sidewalk and failed to remedy it. Odegaard testified that she “had never noticed any ice” in front of the waste containers, even though she stopped there almost daily and passed it more than once on her way into and out of the property before her fall. She also testified that she did not know if anyone else at the property knew about the icy sidewalk.

Odegaard testified that she did not see the icy sidewalk before she fell because it was covered in snow. In its order, the district court stated that the “surveillance video of the area did not show snow on the sidewalk where [Odegaard] fell.” We disagree with this description of the video recording, which does not show what is on the sidewalk. And because we view the evidence in the light most favorable to Odegaard as the nonmoving party, we assume that the icy sidewalk was covered in snow at the time of Odegaard’s fall. But evidence that the icy sidewalk was covered in snow such that Odegaard could not see any ice does not support the inference that MOB had actual knowledge of the icy condition.

No record evidence supports a reasonable inference that Curbside knew about the icy sidewalk and failed to treat it. To the contrary, the only evidence on summary judgment proves that Curbside shoveled and salted the sidewalks the day before Odegaard fell. And Odegaard’s photographs of the sidewalk and waste containers—which depict ice on the sidewalk where she fell—postdate her fall. Even if we assume the photographs are evidence of conditions at the time of her fall, they do not support an inference that MOB knew of or was notified about the icy sidewalk before Odegaard fell. Thus, the district court

did not err by determining that no evidence supports a reasonable inference that MOB had actual knowledge of the icy sidewalk.

II. No record evidence supports a reasonable inference that MOB had constructive knowledge of the icy sidewalk before Odegaard fell.

Constructive knowledge of a dangerous condition “may be established through evidence that the condition was present for such a period of time so as to constitute constructive notice of the hazard.” *Rinn*, 611 N.W.2d at 365. A property owner’s duty to remove snow and ice is triggered when “a reasonable length of time” elapses after the snow and ice is formed. *Mattson v. St. Luke’s Hosp.*, 89 N.W.2d 743, 746 (Minn. 1958). “But speculation as to who caused the dangerous condition, or how long it existed, warrants judgment” in favor of the property owner. *Rinn*, 611 N.W.2d at 365.

Odegaard relies on Schatz’s testimony that she and other Davis Management employees conducted “multiple walkthroughs of the property” during the six months the property was open to the public. Odegaard argues that “the lack of precipitation or melting” in the days leading up to the fall is evidence that either the icy sidewalk “was present prior to [Curbside’s] mitigation efforts and [MOB] negligently failed to clear it or the condition developed after the mitigation efforts because of a dangerous condition that had been on the property for six months.” Odegaard maintains that the photographs show that the icy sidewalk was caused by the roof drain and “had been present for a significant period of time.”

MOB responds that Odegaard’s evidence cannot establish constructive knowledge “without speculating [about] how long the ice existed or how the ice formed—either left

behind after Curbside cleared the property on December 26; or from blowing snow trampled down by foot traffic; or from a thaw and refreeze event.” MOB maintains that there is no evidence that “water dripped from the awning before” Odegaard’s fall or that “ice was left behind” by Curbside.

This court’s decision in *Rinn* is instructive. 611 N.W.2d at 361. Rinn sued multiple defendants after she slipped and fell at the state fair. *Id.* at 363. Rinn slipped on a puddle around 10:30 p.m. as she descended the stairs in a coliseum. *Id.* Rinn testified that “a liquid covered the entire step, she did not know what it was, and it was not there when she ascended the stairs half an hour earlier” at 10:00 p.m. *Id.* The record showed that fair staff “completely cleaned, swept, and inspected” the coliseum each night “but did not disrupt the events by cleaning during the day.” *Id.* If someone brought cleaning issues to the staff, “they were resolved on an ‘as needed’ basis.” *Id.* There was no evidence that the staff “were notified or had knowledge of, or created, the puddle that caused [Rinn’s] fall.” *Id.*

The district court granted summary judgment in favor of the defendants, concluding in part that Rinn “failed to present any genuine issue of material fact relating to how long the liquid had been on the steps, which was essential to establishing that respondents owed a duty to [her] under the constructive notice doctrine.” *Id.* at 362-63. This court affirmed, concluding that, “[e]ven when viewed in the light most favorable to [Rinn], and assuming the puddle was made just after 10:00 p.m., 30 minutes was not sufficient time to give respondents constructive notice of the late-night puddle made” at the coliseum. *Id.* at 365.

Like Rinn, Odegaard did not see the icy sidewalk before she fell—not when she arrived at work at 8:00 a.m., when she left for her lunch break, or when she slipped and fell

on the sidewalk. Therefore, the evidence Odegaard offered on summary judgment was insufficient to support a finding or reasonable inference that the dangerous condition existed for “a reasonable length of time” before Odegaard fell. *Mattson*, 89 N.W.2d at 746. Neither Odegaard’s photographs nor the weather data provide evidence from which a reasonable juror may infer *when* the icy sidewalk was formed before Odegaard’s fall. Instead, the record evidence shows that Curbside salted the property the day before Odegaard fell and the weather data shows no new precipitation before her fall.

Odegaard offers only speculation about when ice formed on the sidewalk, which is not sufficient to defeat summary judgment. *See Rinn*, 611 N.W.2d at 365 (stating that a plaintiff cannot speculate about who caused a dangerous condition or how long it existed to overcome summary judgment). Because no record evidence suggests when the ice formed on the sidewalk where Odegaard fell, there is no genuine issue of material fact about MOB’s constructive knowledge of the icy sidewalk. Thus, the district court did not err by granting summary judgment in favor of MOB on this issue.

III. No record evidence supports a reasonable inference that MOB’s direct actions actually resulted in the icy sidewalk.

A property owner has a duty of care to protect others if a “dangerous condition actually resulted from the direct actions” of the property owner. *Id.* Odegaard contends that there is a genuine issue of material fact as to whether “the ice patch ‘actually resulted from the direct actions of’” MOB. She points to Schatz’s testimony that “MOB constructed the building” and that the roof drain above the sidewalk where Odegaard fell “had not been changed since it was constructed.”

In support of her opposition to summary judgment, Odegaard submitted photographs that depict the north entrance where she fell. These photographs were taken after her fall and include the two photographs shown above. Odegaard argued in her memorandum opposing summary judgment that these photographs showed that “an overflow spout above the trash can drained water onto the surface in front of the trash can.” Odegaard also argued that the photographs “taken after [her] fall clearly show that that area of the sidewalk is consistently icy or wet when other areas are not.” Odegaard maintains that, based on her evidence, “a jury could reasonably conclude that [MOB] actually knew about the overflow spout which caused the ice patch.”

Odegaard also argues that, as to these photographs, the district court “improperly weighed evidence by viewing it in the light most favorable to” MOB on summary judgment. In its order, the district court stated that Odegaard’s photographs “do not show any water drainage, ice, or icicles on the overflow spout”; “do not conclusively establish the ice was, in fact, from water emptying from the spout”; and “do not eliminate other sources of liquid from which the ice could have formed for which [MOB] could not have been aware of and therefore address.”

We agree with Odegaard that she need not “conclusively establish” that MOB’s direct actions actually resulted in the icy sidewalk, as implied by the district court. A nonmoving party “does not need to produce clear and convincing evidence to defeat a summary judgment motion.” *Anderson v. State, Dep’t of Nat. Res.*, 693 N.W.2d 181, 191 (Minn. 2005). But the nonmoving party must “present specific facts showing that there is a genuine issue for trial”; they cannot rely on “evidence which merely creates a

metaphysical doubt as to a factual issue.” *Ariola v. City of Stillwater*, 889 N.W.2d 340, 353 (Minn. App. 2017) (quotations omitted), *rev. denied* (Minn. Apr. 18, 2017).

MOB contends that “there is no evidence to support” Odegaard’s claim that the roof drain “caused the water to drip onto the ground” or that the property’s “design or construction was faulty.” MOB emphasizes that Odegaard did not offer any evidence “about commercial building design or construction” and urges that there is no evidence of any “structural defect,” “code violations,” or “how the ‘overflow spout’ operates.”

We conclude that Odegaard’s evidence fails to establish a genuine issue of material fact about whether MOB’s direct actions caused the icy sidewalk. Odegaard testified that she did not see water dripping from the roof drain before or at the time that she fell on the icy sidewalk and that she did not know how the ice formed. There is no evidence that anyone saw water dripping onto the sidewalk before Odegaard fell. And although Schatz testified that the roof drain empties water from the overhang, there is no evidence that water from the roof drain caused the icy sidewalk where Odegaard fell. Schatz denied seeing water drip from the roof drain or hearing complaints about the same before Odegaard fell. Thus, no evidence supports a reasonable inference that water from the roof drain caused the icy sidewalk at the property.³

³ This court addressed a similar issue in a nonprecedential opinion that is persuasive in its reasoning. *See* Minn. R. Civ. App. P. 136.01, subd. 1(c) (stating that nonprecedential opinions are not binding but “may be cited as persuasive authority”). In *Gehrke v. McCabe’s Ace Hardware, Inc.*, this court considered a tort claim by Gehrke, who slipped on ice outside a hardware store and sued the store owner, alleging that water dripped from the store’s awning and caused the sidewalk to be slippery. No. C4-01-1408, 2002 WL 15679, at *1-2 (Minn. App. Jan. 8, 2002). The district court granted summary judgment in favor of the store owner, and this court affirmed. *Id.* at *1, *3. We determined that the

In sum, because Odegaard's evidence does not support a genuine issue of material fact on MOB's actual or constructive knowledge of the icy sidewalk or that MOB's direct actions actually caused the icy sidewalk, the district court did not err by granting summary judgment in favor of MOB.

Affirmed.

evidence showed that “no one, not even Gehrke, noticed any ice on the sidewalk the night he slipped; rather, the sidewalk merely looked wet.” *Id.* at *2. This court added that, “although there was testimony that water did ordinarily drip from the drain holes in the awning onto the sidewalk, no evidence was offered showing that water was dripping onto the sidewalk at the time of Gehrke's fall, or at any other time that day.” *Id.* Based on the lack of evidence, this court agreed with the district court “that Gehrke's theory of causation rests upon speculation and conjecture.” *Id.* *Gehrke* reinforces our conclusion that Odegaard's evidence requires speculation to infer that MOB's roof drain caused the icy sidewalk where Odegaard fell.