

**CITATION:** Rietta v. Casino Rama, 2018 ONSC 2403  
**COURT FILE NO.:** CV-15-00541650  
**DATE:** 20180413

**SUPERIOR COURT OF JUSTICE - ONTARIO**

**RE:** Maria Rietta, Plaintiff

**AND:**

Casino Rama Inc., Defendant

**BEFORE:** Ferguson J.

**COUNSEL:** *Paul Cahill*, for the Plaintiff

*Jordan Page*, for the Defendant

**HEARD:** April 10, 2018

**ENDORSEMENT**

[1] This is a motion brought by the defendant, Casino Rama Inc. (“Casino Rama”) for summary judgment dismissing the plaintiff’s claim.

[2] The plaintiff’s claim relates to a slip and fall at Casino Rama that occurred on February 16, 2015 while using the washroom.

[3] Casino Rama denies that there were any unsafe conditions in the washroom.

[4] The plaintiff submits that this is not an appropriate summary judgment motion as she will be able to prove liability on a balance of probabilities.

[5] The plaintiff did not notice that the floor was wet however as she entered the washroom she observed a custodian and a yellow caution sign on the floor.

[6] The plaintiff did not trip or lose her balance. Her explanation for her fall is because the floor was slippery due to the presence of water.

[7] Counsel agree that a plaintiff must pinpoint some act or failure on the part of the occupier in order to succeed.

[8] Casino Rama’s position is that the plaintiff has failed to provide any direct evidence that there was an unsafe condition and that she has rather rationalized the explanation for the fall.

[9] In *Hamilton v. Ontario Corporation* 20053 [2017 ONSC 5467] on granting the defendant's motion for summary judgment in *Hamilton*, Sanfilippo J. noted that:

The plaintiff subjectively believes that her slip and fall was caused by a slippery vinyl floor in the corridor outside her apartment but, by reason of the absence of any objective evidence, the plaintiff has failed to prove on a balance of probabilities that an unsafe condition existed on May 7, 2012. There is no objective evidence of anything that could have caused the floor to be slippery. Even broadly, there is no evidence of a general lack of maintenance in the fourth-floor corridor that day that could give rise to an objective determination of an unsafe condition to which Mrs. Hamilton's slip and fall could be connected causally or by reasonable inference.

[10] I agree with counsel for the plaintiff that this case differs. There is not only subjective rationalization but are the two objective facts – the presence of the custodian and the yellow caution sign in the washroom. This gives rise to a triable issue and is not amenable to summary judgment. The motion is dismissed

[11] If the parties cannot agree on costs I am prepared to receive brief written submissions sent by email to [lorie.waltenbury@ontario.ca](mailto:lorie.waltenbury@ontario.ca) from the plaintiff within 10 days and from the defendant within 7 days thereafter.

  
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J.E. Ferguson J.

**Date:** April 13, 2018