

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

D19240
O/kmg

_____AD3d_____

Argued - April 14, 2008

STEVEN W. FISHER, J.P.
JOSEPH COVELLO
DANIEL D. ANGIOLILLO
ARIEL E. BELEN, JJ.

2006-11927

DECISION & ORDER

Franklin Hansen, appellant, v Trustees of the
Methodist Episcopal Church of Glen Cove,
et al., respondents.

(Index No. 15073/04)

Arnold E. DiJoseph, P.C., New York, N.Y. (Arnold E. DiJoseph II of counsel), for
appellant.

Molod Spitz & DeSantis, P.C., New York, N.Y. (Marcy Sonneborn of counsel), for
respondents.

In an action to recover damages for personal injuries, the plaintiff appeals, as limited
by his brief, from so much of an order of the Supreme Court, Nassau County (Murphy, J.), dated
October 10, 2006, as granted that branch of the defendants' motion which was for summary judgment
dismissing the cause of action alleging common-law negligence.

ORDERED that the order is affirmed insofar as appealed from, with costs.

The defendants hired the plaintiff, inter alia, to repair portions of the roof of their
church building and to replace the gutters and a rotted soffit. While the plaintiff was removing a
gutter, a portion of the soffit fell, allegedly injuring him. He commenced this action, asserting claims
under the Labor Law as well as a claim alleging common-law negligence. On appeal, his only
argument is that the Supreme Court erred in granting that branch of the defendants' motion which
was for summary judgment dismissing the common-law negligence cause of action. We affirm the
order insofar as appealed from.

May 13, 2008

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HANSEN v TRUSTEES METHODIST EPISCOPAL CHURCH OF GLEN COVE

Employers have a common-law duty to provide their employees with a safe place to work (*see Gasper v Ford Motor Co.*, 13 NY2d 104, 110). The duty, however, does not extend to hazards that are part of, or inherent in, the very work the employee is to perform or defects the employee is hired to repair (*id.*; *see Kowalsky v Conreco Co.*, 264 NY 125, 129-130; *Wolfe v Teele*, 223 AD2d 854; *Brugnano v Merrill Lynch & Co.*, 216 AD2d 18, 19; *Senkbeil v Board of Educ. of City of N.Y.*, 23 AD2d 587, 589, *affd* 18 NY2d 789; *cf. Rosciano v Royal Farms*, 236 AD2d 599). Here, the defendants established their entitlement to judgment as a matter of law by submitting evidence sufficient to demonstrate that the plaintiff's alleged injuries were caused by the rotted soffit that he was hired to remove and replace (*see Gasper v Ford Motor Co.*, 13 NY2d at 110; *Wolfe v Teele*, 223 AD2d 854; *Senkbeil v Board of Educ. of City of N.Y.*, 23 AD2d at 589). In opposition, the plaintiff failed to raise a triable issue of fact (*see Zuckerman v City of New York*, 49 NY2d 557, 562-563).

FISHER, J.P., COVELLO, ANGIOLILLO and BELEN, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court