

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

D32012
O/kmb

_____AD3d_____

Argued - June 9, 2011

A. GAIL PRUDENTI, P.J.
RANDALL T. ENG
L. PRISCILLA HALL
PLUMMER E. LOTT, JJ.

2010-03428

DECISION & ORDER

Joseph Huguens, appellant, v Village of Spring Valley,
et al., defendants, A & R Rockland Realty, LLC, et al.,
respondents (and a third-party action).

(Index No. 950/08)

Harmon, Linder & Rogowsky, New York, N.Y. (Mitchell Dranow of counsel), for
appellant.

Craig P. Curcio, Middletown, N.Y. (Douglas S. Goldberg of counsel), for respondent
A & R Rockland Realty, LLC.

Goldstein & Metzger, LLP, Poughkeepsie, N.Y. (Paul J. Goldstein of counsel), for
respondent Caribreeze Vegetarian Restaurant.

In an action to recover damages for personal injuries, the plaintiff appeals from an
order of the Supreme Court, Rockland County (Garvey, J.), dated February 25, 2010, which granted
the separate motions of the defendants A & R Rockland Realty, LLC, and Caribreeze Vegetarian
Restaurant for summary judgment dismissing the complaint insofar as asserted against them.

ORDERED that the order is affirmed, with one bill of costs.

Contrary to the plaintiff's contentions, the defendants A & R Rockland Realty, LLC,
and Caribreeze Vegetarian Restaurant (hereinafter together the defendants), satisfied their burden of
demonstrating their prima facie entitlement to judgment as a matter of law on their respective motions
for summary judgment.

July 19, 2011

Page 1.

HUGUENS v VILLAGE OF SPRING VALLEY

“The owner or lessee of property abutting a public sidewalk is under no duty to remove ice and snow that naturally accumulates upon the sidewalk unless a statute or ordinance specifically imposes tort liability for failing to do so” (*Bruzzo v County of Nassau*, 50 AD3d 720, 721; *see Plotits v Houaphing D. Chaou, LLC*, 81 AD3d 620, 621). While the plaintiff correctly observes that the Code of the Village of Spring Valley § 229-32 places the duty to clear snow and ice from a municipal sidewalk on the owner and occupant of the abutting property, and imposes tort liability for injuries arising from noncompliance with the ordinance, the Code of the Village of Spring Valley § 229-33 expressly provides that owners and occupants have eight daylight hours following the cessation of a snowfall within which to comply with the ordinance. Since the plaintiff’s accident occurred well within the eight-hour period, the defendants could not be liable for any failure to clear the sidewalk at the time the plaintiff fell (*see Cangemi v Burgan*, 81 AD3d 583, 584), and the plaintiff failed to raise any triable issue of fact as to whether the defendants attempted to clear the sidewalk prior to his fall and thereby made the conditions worse (*see Klotz v City of New York*, 9 AD3d 392, 393; *Booth v City of New York*, 272 AD2d 357). Accordingly, the Supreme Court properly granted the defendants’ separate motions for summary judgment dismissing the complaint insofar as asserted against them.

PRUDENTI, P.J., ENG, HALL and LOTT, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court