

ETHAN BOUTILIER

v.

MAINE SCHOOL ADMINISTRATIVE DISTRICT NO. 46 / AOS 94

Argued on July 6, 2022
Decided August 4, 2022

Panel: STANFILL, C.J., and MEAD, JABAR, HORTON, and CONNORS, JJ.

MEMORANDUM OF DECISION

Ethan Boutilier appeals an order of the Superior Court (Penobscot County, *Anderson, J.*) granting summary judgment to Maine School Administrative District No. 46 and Alternative Organizational Structure 94 (collectively, MSAD 46) on Boutilier's complaint alleging negligent infliction of physical injuries and negligent infliction of emotional distress. Boutilier argues that the court erred in concluding that the public building exception to sovereign immunity under the Maine Tort Claims Act (MTCA), 14 M.R.S. § 8104-A(2) (2022), applies to the undisputed facts of this case. Under the public building exception to MTCA immunity, "[a] governmental entity is liable for its negligent acts or omissions in the construction, operation or maintenance of any public building" or appurtenance thereto. *Id.* Contrary to Boutilier's contention, the undisputed facts do not establish the prima facie evidence of negligence necessary to survive MSAD 46's summary judgment motion. *See Cote v. Cote*, 2016 ME 94, ¶ 18, 143 A.3d 117 ("[W]here a defendant moves for summary judgment, the burden is on the plaintiff to adduce prima facie evidence as to *each element* of the claim."); *Wing v. Morse*, 300 A.2d 491, 499 (Me. 1973) (defining the elements of common law negligence). Because there is no genuine issue of fact from which we could conclude that MSAD 46

was negligent in the construction, operation or maintenance of any public building, we affirm.

The entry is:

Judgment affirmed.

William N. Palmer, Esq. (orally), Gray & Palmer, Bangor, for appellant Ethan Boutilier

Melissa A. Hewey, Esq., and Amy K. Olfene, Esq. (orally), Drummond Woodsum, Portland, for appellees Maine School Administrative District No. 46 and Alternative Organizational Structure 94

Penobscot County Superior Court docket number CV-2020-119
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