

## OPINION SUMMARY

### MISSOURI COURT OF APPEALS EASTERN DISTRICT

#### DIVISION FOUR

CLYDE WOODALL,	)	No. ED101777
	)	
Appellant,	)	Appeal from the Circuit Court
	)	of St. Louis County
vs.	)	11SL-CC03892
	)	
CHRISTIAN HOSPITAL NE-NW,	)	Honorable Richard C. Bresnahan
	)	
Respondent.	)	Filed: August 25, 2015

Clyde Woodall (“Appellant”) appeals the trial court’s grant of summary judgment in favor of Christian Hospital NE-NW (“Respondent”) on Appellant’s petition alleging Respondent was liable for injuries Appellant suffered while working for an independent contractor, Envirotech, Inc. (“Envirotech”) on a building owned by Respondent.

AFFIRMED IN PART AND REVERSED AND REMANDED IN PART.

#### Division Four holds:

- (1) The trial court did not err in granting summary judgment on Appellant’s premises liability claim, because Respondent’s presence on the premises was not related to the abatement, it had no authority to direct Envirotech’s performance of the work, it did not direct Appellant’s physical activities or those of any other Envirotech employee, and Respondent did not exercise control over the details of the manner in which the work was done. Therefore, Respondent did not owe a duty of care to Appellant which would potentially subject Respondent to premises liability, and Respondent negated an essential element necessary for judgment in Appellant’s favor.
- (2) The trial court erred in granting summary judgment on Appellant’s general negligence claims with regard to Respondent’s alleged negligence in removing the handrail and providing a defective generator. The independent contractor doctrine only bars causes of action arising from alleged dangerous conditions on the property, not injuries resulting from allegedly negligent conduct by the Respondent. There remain genuine issues of material fact as to Appellant’s general negligence claims.

Opinion by: Robert M. Clayton III, J.  
Patricia L. Cohen, P.J. and Roy L. Richter, J., concur.

Attorneys for Appellant: Todd I. Muchnick, Joshua D. Margolis

Attorneys for Respondent: Russell L. Makepeace, Joshua S. Davis, Adam S. Johnson

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