

**COURT OF APPEALS
DECISION
DATED AND FILED**

May 14, 2002

Cornelia G. Clark
Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

**Appeal No. 01-1024
STATE OF WISCONSIN**

Cir. Ct. No. 99-CV-332

**IN COURT OF APPEALS
DISTRICT III**

CHIPPEWA VALLEY COUNTRY FESTIVAL,

PLAINTIFF-RESPONDENT,

v.

LITTLE BLACK MUTUAL INSURANCE COMPANY,

DEFENDANT-APPELLANT.

APPEAL from a judgment of the circuit court for Chippewa County:
RODERICK A. CAMERON, Judge. *Affirmed.*

Before Cane, C.J., Hoover, P.J., and Peterson, J.

¶1 PER CURIAM. Little Black Mutual Insurance Company appeals a summary judgment granted in favor of Chippewa Valley Country Festival. Little Black argues that the trial court erred by concluding that its policy covered Chippewa Valley's claim for damages. We reject Little Black's argument and affirm the judgment.

BACKGROUND

¶2 Chippewa Valley owns a 156-acre parcel of land on which it operates music festivals. In June 1998, lightning damaged several light poles located throughout the festival grounds. The light poles are thirty feet tall, buried five feet underground and were intended to be permanent fixtures to the real estate. Chippewa Valley ultimately submitted a claim to Little Black for labor and materials in connection with repairing the lighting system and related electrical equipment. Little Black denied the claim on the basis that the light poles were not covered under the policy.

¶3 Chippewa Valley and Little Black filed cross-motions for summary judgment seeking a determination from the trial court whether the light poles were covered under the policy's terms. The trial court granted summary judgment in favor of Chippewa Valley. This appeal followed.

ANALYSIS

¶4 This court reviews summary judgment decisions independently, applying the same standards as the trial court. *Smith v. Dodgeville Mut. Ins. Co.*, 212 Wis. 2d 226, 232, 568 N.W.2d 31 (Ct. App. 1997). Summary judgment is granted when there are no genuine issues of material fact and the moving party is entitled to judgment as a matter of law. *Green Spring Farms v. Kersten*, 136 Wis. 2d 304, 315, 401 N.W.2d 816 (1987).

¶5 Resolution of this case turns on the interpretation of an insurance contract, a question of law that we review independently, although benefiting from the trial court's analysis. *Hull v. State Farm Mut. Auto. Ins. Co.*, 222 Wis. 2d 627, 636, 586 N.W.2d 863 (1998). A court gives insurance policy language its

common and ordinary meaning, construing the insurance policy as would a reasonable person in the position of the insured. *See Wis. Label Corp. v. Northbrook Prop. & Cas. Ins. Co.*, 221 Wis. 2d 800, 806, 586 N.W.2d 29 (1998). When an insurance policy read in context is reasonably susceptible to more than one construction, it is ambiguous. Any ambiguity in an insurance policy is resolved in favor of the insured. *Donaldson v. Urban Land Interests, Inc.*, 211 Wis. 2d 224, 230, 564 N.W.2d 728 (1997).

¶6 Here, Little Black argues that the trial court erred by concluding that the light poles were covered within the definition of “outdoor fixtures” under the “Buildings and Structures” portion of the policy. The policy provides, in relevant part:

PROPERTY COVERED

Buildings and Structures – We cover the described buildings or structures. This coverage includes:

- additions;
- fixtures, machinery and equipment which are a permanent part of the buildings and are used to provide building services;
- outdoor fixtures;
- personal property used for maintenance or service of the described premises; and
- material, equipment and supplies intended for use in construction, alteration or repair of the buildings

We cover only while at the described premises.

¶7 Citing the policy’s reference to “the described premises,” Little Black argues that for the light poles to be covered as “outdoor fixtures,” they have to be appurtenant to a building or structure listed in the declarations or

endorsements. In other words, Little Black contends that “the described premises” refers to those buildings and structures identified in the declarations or endorsements. We are not persuaded.

¶8 While Little Black may have calculated its premiums based on the value of the buildings and structures itemized in the policy, it also insured “outdoor fixtures” at “the described premises.” The policy’s “Description of Premises” lists Chippewa Valley’s 156 acres of real estate. Because the light poles were outdoor fixtures scattered around the “described premises,” we conclude that the insurance policy provides coverage for the damage to those light poles.

By the Court.—Judgment affirmed.

This opinion will not be published. See WIS. STAT. RULE 809.23(1)(b)5.

