Supreme Court of New York
Appellate Division, Second Department

June 4, 2001.

Agron JANI, et al.

Appellants,

v.

CITY OF NEW YORK, et al.

Defendants-Respondents,

Port Authority of New York
and New Jersey, et al.

Defendants Third-Party
Plaintiffs-Respondents

Merrill Lynch & Co., Inc.

Defendant Second Third-Party
Plaintiff-Respondent

JWP Maintenance and Service, Inc.

Third-Party and Second Third-Party
Defendant-Respondent.

Benedict P. Morelli & Associates, P.C., New York, N.Y. (Laurie DiPreta of counsel), for appellants.

Quirk and Bakalor, P.C., New York, N.Y. (Alice J. Jaffe of counsel), for defendants third-party plaintiffs-respondents and defendant second third-party plaintiff-respondent.

London Fischer, LLP, New York, N.Y. (John E. Sparling and Brian A. Kalman of counsel), for third-party and second third-party defendant- respondent.

GLORIA GOLDSTEIN, J.P., LEO F. McGINITY, ROBERT W. SCHMIDT and NANCY E. SMITH, JJ.

In an action to recover damages for personal injuries, etc., the plaintiffs appeal, as limited by their brief, from so much of an order of the Supreme Court, Richmond County (Mastro, J.), dated March 10, 2000, as granted those branches of the motion of the third-party and second third-party defendant which were for summary judgment dismissing their causes of action pursuant to Labor Law §§ 240(1) and 241(6), and denied their cross motion for summary judgment on the issue of liability.

ORDERED that the order is affirmed insofar as appealed from, with one bill of costs to the respondents appearing separately and filing separate briefs.

The injured plaintiff (hereinafter the plaintiff), an electrician, was injured when he fell from a ladder while attempting to replace an electrical contactor located in an air-handling unit. The work performed by the plaintiff at the time of the accident involved the mere replacement of a worn- out component part in a nonconstruction, nonrenovation context, and did not constitute "erection, demolition, repairing, altering, painting, cleaning or pointing of a building" within the meaning of Labor Law § 240(1) so as to bring the plaintiff within the protective ambit of the statute (see, Smith v. Shell Oil Co., 85 N.Y.2d 1000, 630 N.Y.S.2d 962, 654 N.E.2d 1210; Greenwood v. Shearson, Lehman & Hutton, 238 A.D.2d 311, 656 N.Y.S.2d 295; Rowlett v. Great S. Bay Assocs., 237 A.D.2d 183, 655 N.Y.S.2d 16; see also, Edwards v. Twenty-Four Twenty-Six Main St. Assoc., 195 A.D.2d 592, 601 N.Y.S.2d 11).

Similarly, the Supreme Court properly dismissed the plaintiffs' claim pursuant to Labor Law § 241(6), as the injured plaintiff's activity did not constitute repair work (see, Ross v. Curtis-Palmer, 81 N.Y.2d 494, 601 N.Y.S.2d 49, 618 N.E.2d 82).

The plaintiffs' remaining contentions are without merit.

725 N.Y.S.2d 388, 284 A.D.2d 304, 2001 N.Y. Slip Op. 04815

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