

A graduate student who was moving needed cardboard boxes, so she went to her usual grocery store to look for some. The store regularly gave repeat customers empty boxes to promote goodwill. Seeing no boxes outside, the student entered the store and asked a store employee for help. The employee pointed toward the rear of the store and said that all the empty boxes were in the storeroom.

The student went into the storeroom through a door with a sign that said: "Keep Out. Employees Only." While in the storeroom, she tripped on a fold in a floor mat and fell into a stack of wooden crates. The topmost crate fell on the student, causing a head injury.

The student has sued the store to recover for her injury.

Which statement below is the most appropriate characterization of the student and her conduct under traditional common law rules?

- A. The student assumed the risk, because she knew that the storeroom was not normally accessible to the public.
- B. The student was a licensee in the store, because she had no intention of making a purchase at the store during the box-hunting visit.
- C. The student was a trespasser in the storeroom, because she ignored the sign on the door barring entrance to the storeroom.
- D. The student was an invitee in the storeroom, because she had permission to enter the storeroom consistent with the store's policy of making its empty boxes available to repeat customers.

Incorrect

Correct answer D

Collecting Statistics

01 min, 43 secsTime Spent

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Explanation:

Land possessor's duty to land entrants

(traditional approach)*

Status	Characteristics	Duty
Trespasser	Intentionally enters land without permission	Known or frequent trespassers – warn of known artificial dangers & use reasonable care in active operations Unknown or unanticipated trespassers – no duty
Licensee	Enters land with permission (eg, social guest)	Warn of known latent dangers & use reasonable care in active operations
Invitee	Enters land open to public (eg, churchgoer) Enters land for business purpose (eg, store customer)	Inspect for unknown dangers Make premises safe or provide adequate warnings Prevent harm from active operations

*In jurisdictions that follow the modern approach, land possessors owe a duty of reasonable care to all land entrants, except flagrant trespassers.

Under the **traditional common-law approach** to landowner liability for [negligence](#), a landowner owes different duties of care to those on the land depending on the entrant's status. An invitee is someone invited to **enter or remain on the land**:

for the purposes for which the land is held **open to the public** (ie, a **public invitee**) *or* for a purpose **connected to business dealings** with the land possessor (ie, a **business invitee**).

Here, the student entered the store to find cardboard boxes to use for moving. A store employee then granted the student permission to enter the storeroom to look for them. Since the student had permission to enter the storeroom consistent with the store's policy of making its empty boxes available to repeat customers, the student was an invitee—specifically a business invitee—in the storeroom. Therefore, this is the most appropriate characterization of the student and her conduct under traditional common-law rules.

(Choice A) [Assumption of the risk](#) is a defense to negligence when the plaintiff voluntarily exposed him/herself to a known risk of harm. Although the student knew that the storeroom was not normally accessible to the public—due to the "Keep Out. Employees Only." sign—there is no indication that the storeroom posed any known risk of harm. Therefore, this defense is inapplicable.

(Choice B) Although the student had no intention of making a purchase at the store during her box-hunting visit, she was still an invitee—not a licensee. That is because the student entered the store consistent with the store's policy of making its empty boxes available to repeat customers.

(Choice C) Although the student ignored the sign on the door barring entrance to the storeroom, she was not a trespasser because she entered the storeroom with the store employee's permission.

Educational objective:

Under the traditional common-law approach, an invitee is someone invited to enter or remain on the land for the purposes for which the land is held open to the public (ie, public invitee) or a purpose connected to business dealings with the land possessor (ie, business invitee).

References

Restatement (Second) of Torts § 343 (Am. Law Inst. 1965) (explaining the duty traditionally owed to an invitee).

Restatement (Second) of Torts § 332 (Am. Law Inst. 1965) (defining an invitee).

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