



# Claim Case Studies & Legislation: Slip and Fall at a Municipal Building *Spelliscy v. Pilot Butte (Town), 1996 (SK QB)*

## Facts

The Plaintiff was a bantam hockey league commissioner. As commissioner, he was required to attend and observe hockey games in the City of Regina and surrounding area. After a game at the Pilot Butte arena, the Plaintiff went down to the change room area to speak with the coaches and the referees. Since his car was parked outside on the south side of the building, he departed through the south entrance, rather than the main entrance, through which he had originally entered.

The recreation centre had established an outdoor ice skating rink on the south side of the building. There was a concrete sidewalk running from the entrance to the rink. Staff placed outdoor mats on the sidewalk to help protect the condition of users' skates. The sidewalk was new, and therefore, so were the mats. It snowed on the day of the incident resulting in a light covering of snow on the mats. Upon leaving the south entrance, the Plaintiff slipped and fell on a mat injuring his wrist.

## Issues

1. Did the Defendant owe a duty of care to the Plaintiff?
2. Did the Plaintiff exercise reasonable care for his own safety?

## Law

The leading case in Canada dealing with the law relating to invitators and invitees is *Campbell v Royal bank*, 1963 (SCC). The text "Remedies in Tort" by L.D. Rainaldi (Carswell: 1987; updated 1995) volume 3, also gives a summary of the principles of law in this area. The text states that the standards of care owed by an occupier to an invitee has been defined as follows: "with respect to such a visitor at least, we consider it settled law, that he, using reasonable care on his part for his own safety, is entitled to expect that the occupier shall on his part use reasonable care to prevent damage from unusual danger, which he knows or ought to know". The term 'unusual danger' is intended to exclude the common recognizable dangers of everyday experience on ordinary premises. It is a relative term; relative to the kind of premises visited and the kind of person who normally visits

such premises. It follows that an occupier cannot be held liable to an invitee for an unusual danger unless he knew or ought to have known of its existence.

## Findings

The caretaker of the arena had shoveled snow from the mats periodically through the day as time permitted. He stated that even when the mats were covered with snow, he had never found them to be slippery. He had never received any complaints about them being slippery. The caretaker also noted that there were lamps mounted outside to illuminate the south entrance and the rink. The recreation coordinator also noted that she had never found the mats to be slippery, had never received any complaints about them being slippery and also commented on the ample amount of illumination in the area. She had been in and out of the south side entrance five to six times on the day in question. After she learned of the Plaintiff's accident, she had the mats removed. The Defendant holds that there were no signs warning that the outdoor mats were slippery.

## The Court's Ruling

Slippery winter conditions constitute a fact of life for most of us in Canada. People must be aware and take reasonable measures in order to guard themselves against those conditions. The circumstances under which the Plaintiff slipped and fell in this case do not constitute an unusual danger. The Court found that there was no negligence on the part of the Defendant and therefore dismissed the Plaintiff's claim.

## Lessons Learned

The best defense is a good offence. Municipalities should be proactive in their loss prevention.

For more information on keeping your outdoor rink facilities safe see our Risk Management Considerations for Outdoor Rinks.

If there is an incident on the property, follow a set protocol for incident reporting, including:

- The location of the incident.
- A description of the person involved, including their clothing and footwear.
- How often the person visits the premises.
- The type of injury sustained.
- Any witnesses and their accounts of the incident.
- The employee or manager response to the incident.