Claim Case Studies & Legislation: Martin v. Barrie (City) – Snow Slide Injury at a Winter Festival

The adult Plaintiff and her family attended a winter festival held in Barrie on February 5,2011.

While she was sliding down a snow slide, the Plaintiff claims to have injured her tailbone when an ice chunk became dislodged and struck her buttocks as she dug her heels in to slow down. When the Plaintiff looked back to see what she hit, she claims to have heard an employee say, "I have to fill this in again" and then kick snow to fill in the spot where the ice chunk had been.

The Events Coordinator for the City testified that staff were given a shovel to use to keep the snow smooth and filled in. Staff were also trained on slide maintenance. Staff were directed to fill in gaps or patches in the snow at the landing area and monitor and direct the traffic on the slide to ensure guest safety.

The trial Judge stated that, although a participant accepts some degree of risk when choosing to use the slide, the party operating the slide has a duty to operate it in a manner that is reasonably safe in the circumstances.

The Plaintiff's position was that the City failed to fulfil their duty. To support their position, they pointed to the fact that the City did not have an inspection process in place for assessing the safety of the slide and the landing area. The Plaintiff also attempted to use the City's failure to monitor and maintain the slide during heavy use and inadequate training of staff to support their position.

The trial Judge found that the City had not breached the standard of care for maintaining the snow slide and was, therefore, not liable for the Plaintiff's injury.

The City's system for maintaining the slide involved adequate training that included an expectation that staff would remove hazards if they became aware of any and that the landing area was fenced off and adequately supervised. The Trial Judge's decision was also affected by the fact that the slide was not steep or particularly dangerous so it did not require more maintenance than the City was providing.

The trial Judge reiterated that the standard is not one of perfection, rather it is a standard of reasonableness in view of the activity in question and in view of the circumstances.

The Plaintiff appealed on three grounds. Their position was that the trial Judge erred:

1. by concluding that the ice chunk that the Plaintiff struck was "small";
2. in the inference he drew from the employee's utterance, "I have to fill this in again"; and
3. in making the conclusion that the City had not breached the standard of care.

The appellate Judge did not find that the trial Judge had made any errors let alone a "palpable and overriding error" in his decision which is the standard for granting an appeal. Accordingly, the appeal was dismissed.

Takeaway

We often hear from municipalities that they are discouraged because they feel that no matter what action they take, they will still be involved in claims and will be found at least partially liable for the damages. This claim demonstrates that a municipality's system of maintenance and inspection does not have to be perfect, it must only be reasonable in the circumstances for the standard of care to be met.