

Claim Case Studies & Legislation Playground Equipment and the Importance of Documentation

Facts

The Municipality ordered playground equipment, which included a slide. They ordered it from a reputable company that was known for creating equipment that met the CSA standards. During the time that the Municipality was ordering the slide, the CSA standards changed and the slide no longer met the CSA standards.

Ten years later a three year old boy fell off the slide and suffered a severe brain injury.

Issue

Was the Municipality responsible for the boy's injury for failing to ensure that their playground equipment met CSA standards?

Findings

The Municipality looked to the company that they had purchased the equipment from. The company's stance was that they shared no part in the liability as the equipment was owned by the Municipality who should have been inspecting it for the past ten years. All equipment that is CSA approved has an approval stamp put on by the manufacturer. The company had not given this slide a CSA approval stamp.

The Municipality then began to look into the inspection records for the playground. The playground was inspected every week during the park season (spring through fall). This particular year, spring had come early. It was warm, the grass was growing and Municipal employees had seen children using the park. However, they did not initiate the inspection protocol. Since the park inspections had not yet commenced, that also meant that the footings had not yet been tilled. This meant that the surface that the boy fell onto was very hard and compacted with no give.

Examination of the records showed that it was unclear as to whether anyone had ever checked the equipment for the CSA stamp. The inspection reports were checklists and it appeared as though most reports had simply been 'checked off' with one big check. This type of incomplete documentation is not suitable or appropriate for Municipal documents that could be used in the event of a claim. The Municipality settled the claim for approximately \$400,000.

Lessons Learned

When ordering new playground equipment, always be sure it is CSA approved. Check the equipment on arrival for the CSA stamp. This should be a routine part of the ordering and receiving process.

If a claim goes to court, the main body of evidence in any proceeding is based on the documents. The Municipality must present documentation to prove that the standard of care was met. The plaintiff will challenge the veracity of the documents. Accurate, timely and thorough record keeping is therefore crucial to a successful defence. Unfortunately, record keeping is often neglected. For more information on documentation, see our article 'Risk Management Considerations for Documentation'.

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