



Claim Case Studies & Legislation: A Train Passing Through a Parade

Facts

A train was stopped by parade activity. It was waiting until the annual parade had cleared before proceeding. When the police directed the train to begin to move, the train proceeded with caution. The train moved slowly over the rail crossing sounding a bell warning of its approach.

As the train passed the parade spectators a metal railing became disengaged and struck a man and his daughter. It hit the man on the arm and the young girl on the head and dragged her a short distance. She was transported to hospital by ambulance. There were no significant injuries, although the family claimed to be suffering psychologically from the trauma for some time following.

The man claimed that it was the City's responsibility to ensure that the public was protected while watching the parade. He brought an action against the City for the pain and suffering the incident caused his family. He also brought an action against the parade organizers and the railway. He claimed over fifty thousand dollars in damages.

Issue

Was the City liable for the claimant and his daughter's damages?

Legislation

The duty of care owed to a person on a Municipality's premises is found in legislation such as the *Occupier's Liability Act* and/or in common law. It requires that occupier's

take such care as in all circumstances of the case is reasonable, to see that persons entering on the premises are reasonably safe while on the premises.

Findings

The claimant asserted that the City failed to take adequate steps to notify the railway prior to the parade of the parade's probable interference with the railway movements. He also claimed that the City was negligent in permitting a parade at the same time as the scheduled crossing of the train.

The City stated that the crowd was adequately warned that there was a train passing through and that all precautions to protect the parade participants and spectators were taken.

The City also investigated whether the claimant was standing on private property and not on the roadway or municipal sidewalk.

Outcome of the Claim

The City was able to confirm using aerial photographs that the claimant and his daughter were not standing on Municipal property at the time of the incident. The Municipality was released from the action.

Lessons Learned

When organizing or hosting a special event like a parade, you must ensure that participants and spectators are safe. For more information, see our Risk Management Considerations for Municipally Run Parades.

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