

Tort Action Arising from Injury at Heavy Metal Concert

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In [Webster v. Inneractive Security Services Inc.](#),¹ the Ontario Superior Court of Justice recently granted summary judgment in a case where the plaintiff had sustained injuries at a heavy metal concert while dancing in a crowd.

Background

In November 2015, the plaintiff went to a heavy metal concert. Shortly after the music started, he was found lying on the ground, severely injured, surrounded by a crowd of people. As a result of the incident, the plaintiff is an incomplete quadriplegic.

The plaintiff sued multiple defendants, including a security company, for negligence, occupiers' liability and breach of the *Ontario Liquor Licence Act*.

The defendants brought a summary judgment motion to have the plaintiff's claim dismissed.

Plaintiff's Arguments

The plaintiff submitted, among other things, that the security guards at the concert should have been better trained or engaged in different and better procedures.

He argued that there should have been pat downs and weapon checks, and that, following his fall, the security guards should not have moved him.

Defendants' Arguments

The defendants argued that the plaintiff could not prove what action had caused the injury, and had not put forward any credible theory as to who or what caused the injury.

¹ 2020 ONSC 6957.

Reasoning

Justice Skarica cited paragraph 49 of *Hryniak v. Mauldin*,² which indicates:

There will be no genuine issue requiring a trial when the judge is able to reach a fair and just determination on the merits on a motion for summary judgment. This will be the case when the process (1) allows the judge to make the necessary findings of fact, (2) allows the judge to apply the law to the facts, and (3) is a proportionate, more expeditious and less expensive means to achieve a just result.

He stated that all three of those factors were met in this case.

Negligence Claim

Justice Skarica stated that the plaintiff had not provided a sufficient factual basis to establish that the harm was a reasonably foreseeable consequence of the defendants' conduct.

He indicated that someone in the defendants' position should not have reasonably foreseen the harm to the plaintiff. He held that the defendants had acted reasonably in the circumstances, which is all that was required.

Notably, Justice Skarica distinguished this case from cases where there is a prior risk of violence or risk of a violent confrontation.

He added that there was insufficient evidence of the defendants creating an objectively unreasonable risk of harm.

With respect to the plaintiff's allegations against the security guards, Justice Skarica noted that there was no evidence that any of these alleged defects contributed to the plaintiff's injuries. He added that there was no medical evidence indicating that the security guards injured the plaintiff by moving him after his fall.

Occupiers' Liability Act Claim

Justice Skarica emphasized that the responsibility of an occupier is only "to take such care as in all circumstances is reasonable." He stated that occupiers are not liable for any and all damages suffered by people on their premises. The plaintiff did not prove a breach of the *Occupiers' Liability Act*.

² 2014 SCC 7.

Liquor Licence Act Claim

As there was no evidence that the plaintiff was intoxicated at the time of the accident, there was no violation of the Ontario *Liquor Licence Act*.

Conclusion

The court concluded that there was no genuine issue for trial, and the summary judgment motion was successful.

While the principles applied in this case are well-known, *Webster v. Inneractive Security Services Inc.* acts as a reminder that the fact that a plaintiff sustains an injury on a premises, no matter how severe, does not equate to a finding of liability against an occupier.