

News

Health and Safety Case May Clarify Employer Obligations

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The Alberta Court of Appeal recently granted leave to appeal in a case which will be of interest to employers generally, to clarify the scope of their health and safety obligations, and more particularly to employers who host events at which they rent equipment for use by guests.

An Alberta employer had rented a calf-roping machine for use by clients at a Calgary Stampede party hosted by the employer. That machine malfunctioned, and an employee, who was helping with its operation, was struck by a steel lever on the machine and later died from his injuries.

Charges were laid under the provincial health and safety legislation. At trial, the Provincial Court found that the defendant employer had made out a defence of due diligence. That decision was overturned by the Queen's Bench. It found the employer proceeded to operate the machine without instructions, the equipment had also malfunctioned prior to the fatal incident and the employee who died had been loading the machine in an incorrect manner: "To find that a potential danger in such circumstances was unforeseeable demonstrates a palpable and overriding error." The Queen's Bench stated that a reasonable employer would have asked for instructions on how to operate the machine and once the hazard was detected, it would have taken the machine out of service. It found "a simple assumption of safety cannot satisfy the due diligence requirement."

The Court of Appeal has granted leave to appeal from the Queen's Bench decision on an issue of law. A discussion of the leave to appeal decision is found on our Case in Point blog, "[Alberta Court of Appeal Grants Leave to Appeal in Case Regarding Employer's Health and Safety Obligations.](#)"