224

ROYAL COURT
(Samedi Division)

12th December, 1997

Before: Sir Philip Bailhache, Bailiff and Jurats Le Ruez and Rumfitt

A.G.

-v-

New Lyn Apartments Ltd.

1 count of contravening Article 21(1)a of the Health and Safety at Work (Jersey) Law,1989, by failing to conduct its undertaking in such a way as to ensure so far as reasonably practicable, that persons not in its employment who might be affected thereby were not exposed to risks to their safety.

Plea: Facts admitted.

Details of Offence:

The defendant was a main contractor on a site when an accident occurred on 14th March, 1997 involving an employee of a sub-contractor falling approximately 2.6 metres down an open stairwell between the third and second floors. There was no guard rail or barrier erected across the open stairwell at the time. The injured employee suffered a broken wrist and bruising.

Details of Mitigation:

The defendant admitted the contravention and was a first offender. Injuries suffered not serious.

Previous Convictions:

None.

Conclusions:

£2,000 fine and £250 costs.

Sentence and Observations of the Court:

Conclusions granted. Crown Advocate expressed Attorney General's warning that in future fines in respect of breaches of the Health and Safety at Work (Jersey) Law 1989 may be sought at a higher level than in the past to refelct inflation and where appropriate the gravity of the offence. It was noted by the Crown Advocate that the Court had commented in the Jersey New Waterworks case that the sentences for which the Crown moved, although in line with precedent, were too low and did not serve as a deterrent to employers.

Mrs. S. Sharpe, Crown Advocate.
Advocate S. Slater for the Defendant Company.

JUDGMENT

THE BAILIFF: The duty upon an employer to comply with its obligations under the Health and Safety at Work (Jersey) Law, 1989, is an important one. It is true that on this occasion the injury suffered by the employee was, fortunately, not severe but it seems clear to the Court from the submissions which have been made that the company defaulted on its obligation, certainly over a period of some days, to carry out the necessary checks to ensure that its employees were not exposed to danger.

The Court endorses the view of the Attorney General that sentences for infractions of the Health and Safety at Work (Jersey) Law have perhaps been too low in the past. The Court has no hesitation in granting the conclusions in this case and in appropriate cases will be prepared to impose stiffer penalties on companies which do not comply with their obligations. The company is accordingly fined the sum of £2,000 and will pay costs of £250.

Authorities

A.G. -v- Tilbury Douglas Construction Limited, (8th October, 1993) Jersey Unreported.
A.G. -v- C.I. Bakery Limited (21st June, 1996) Jersey Unreported.
A.G. -v- Farm Pak Limited (8th October, 1993) Jersey Unreported, p. 132.
A.G. -v- Jersey New Waterworks Co. Ltd., (28th November, 1997) Jersey Unreported.