

Employer Who Didn't Provide Safety Gear Can't Blame Worker for Violation



A construction worker suffered partial paralysis after falling from a 10-foot ladder. The contractor and supervisor were convicted of an OHS violation for failing to furnish a scaffold to ensure the work was carried out safely. The evidence showed that workers using ladders would have to stand on at least the third highest rung to perform some of the job tasks. The defendants claimed that the incident was unforeseeable and that the victim caused the fall by standing on the top rung. But the Ontario court shot down their due diligence defence and upheld the convictions. Worker conduct can factor into due diligence but only when all reasonable steps are taken to address a hazard and the worker undoes those careful safety measures. But the defendants didn't do that. By furnishing 10-foot ladders instead of scaffolding, they exposed workers to fall hazards [[Ontario \(Ministry of Labour\) v. GMJ Electric Inc.](#), 2021 ONCJ 102 (CanLII), February 22, 2021].