Reasonable Safety Is Sufficient To Absolve An Occupier Of Liability Under The OLA

In the recent Alberta Court of Queen's Bench decision of *Westerveld v Cineplex Entertainment Corp*, 2022 CarswellAlta 920, Master Mattis described the obligations imposed on an occupier under the *Occupiers' Liability Act* (*OLA*).

In this case, the plaintiff sustained a knee injury after she tripped and fell over a raised footrest of a recliner seat while exiting a Cineplex movie theatre.

The plaintiff sued Cineplex under the *OLA* and in negligence. Cineplex brought a summary dismissal application which was granted. Master Mattis dismissed the plaintiff's claims because Cineplex discharged its duties owed under sections 5 and 6 of the *OLA*. Cineplex's regular system of inspection and maintenance demonstrated that they had acted reasonably to keep the premises safe.

The takeaways from this case are:

- An evidentiary burden is placed on the occupier to demonstrate that it applied the degree of reasonable care, required by the foreseeable risk, sufficient to keep visitors reasonably safe.
- Section 5 of the *OLA* imposes a duty on the occupier to take reasonable steps to keep visitors reasonably safe from foreseeable harm.
- Section 6 of the *OLA* requires an occupier to take into account the condition of the premises, the activities occurring on the premises, and the conduct of third parties on the premises, in determining what is required to ensure the reasonable safety of visitors.

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The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

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