
Claimant's fundamental dishonesty leads to his claim becoming unstuck at Trial!

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DAC Beachcroft's Casualty Fraud Team have secured a further finding of fundamental dishonesty after a Claimant attempted to squeeze maximum compensation from his employer when pursuing an employer's liability claim.

The Claimant pursued a claim for damages for personal injuries against his employer alleging that as he was walking along a walkway whilst completing his routine checks of the premises, he came across an industrial sweeper that had been left in the walkway. He alleged that as he attempted to squeeze past the industrial sweeper he lost his footing causing him to fall and sustain a moderate injury to his shoulder, which required subsequent surgery.

A technical breach of duty was admitted pre-litigation on the basis that it was accepted that the industrial sweeper had caused an obstruction but suspicions arose when it was discovered that there was no independent evidence to corroborate the Claimant's varying accounts of the circumstances of the alleged accident.

At Trial, Counsel for the Defendant raised the Claimant's credibility as an issue on the basis that his evidence in respect of the accident circumstances was inconsistent and not credible. The Defendant contended that the true cause of the alleged accident was the Claimant's foolhardy decision to try to squeeze through a narrow gap at the side of the machine and not due to any negligence or breach of duty on the part of the Defendant.

The Claimant presented poorly in cross-examination and the Judge found his evidence to be wholly unreliable. During the course of cross-examination, the Claimant was driven to accept that he had lied to his medical expert and also within documents verified by statements of truth in respect of the extent of his symptoms. The Judge reminded himself that there was no independent evidence to corroborate the Claimant's case and the claim was dismissed.

The Judge went on to find that the Claimant had been dishonest and that his dishonesty was fundamental to the case. QOCS was disapplied and the Claimant was ordered to pay the Defendant's costs of the action on an indemnity basis in the sum of £18,096.42.

Authors



Claire Laver

Birmingham +44 (0)121 698 5730
claver@dacbeachcroft.com



Helen Laight

Newcastle +44 (0)191 404 4087
hprice@dacbeachcroft.com