

Judge ‘commends’ defendants & dismisses injury claim

Dismissing a claim by an employee who alleged his fingers were cut on a rotating saw in a joinery, a High Court judge said the company was “to be commended”.

Ms Justice Mary Irvine said the case was one where factory regulations meant something and all the employees had been trained. The judge accepted that the accident happened, but not in the way the injured worker had claimed.

Giving evidence, the injured worker told the court that his job was to tidy up, pick up pieces of wood and sweep the floor. On the day of the accident, he bent down and grabbed a piece of wood with both hands and turned around to throw it behind him.

As he threw the piece of wood, his hand came in contact with the blade of a rotating saw machine, which he had not realised was running, as there was nobody working on it. Three of his fingers were cut. The top of his middle finger was cut off.

He told the court that after receiving first aid treatment, even though he was in shock, he went back to the factory floor to look for the top of his finger. It was found on a bench.

Opening the case, senior counsel claimed that the machine was dangerous, that it should not have been left running when unattended, and there should have been an appropriate guard in position to prevent contact with the blade. The injured worker’s employer was in breach of statutory duty, counsel claimed. The employer should have ensured the machine was turned off.

Giving evidence, the worker’s supervisor said that when the worker reported the accident to him, he bandaged his hand and contacted the doctor. Then they found the missing bit of the finger. He said the worker told him that the accident happened when he was cleaning a bit of dust or dirt from the machine.

The court heard from the supervisor’s wife said that she looked after safety and equipment in the joinery and regularly updated the safety statement. She did this with the assistance and advice of **Gordon Richardson** of **Safetydot.com**, who advised on the original safety statement.

Summing up, Ms Justice Irvine said “The onus is on the plaintiff to convince the court that the accident happened in the manner he described”. The worker’s contention on was, she said, that the employer was obliged to turn off the machine if an operator was not present and that not to do so was a breach of statutory duty.

The judge said that an assertion by the worker that the suction fan was not in place was not true. She did not accept that the worker’s hand would have come into contact with the machine if he was doing what he said he was doing. She accepted engineering evidence for the employer that the machine was not designed to be turned off every time an operative went for a piece of timber. Little would be achieved if it had to be turned off, as it took 17 seconds for the blade to “wind down”.

Dismissing the claim, she said the worker took some kind of risk that he was not permitted to do. She awarded costs to the defendant. (*Petera v Callan Joinery Ltd: High Court, Waterford. March 2010*)

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