

ARE CLUBS AND REGIONAL SPORTING GROUPS NOW REQUIRED TO ADVISE VOLUNTEERS NOT TO GRAB MUGS OF BURNING OIL? YES, ACCORDING TO THE TAS SUPREME COURT

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A community bowls club volunteer cooking a BBQ at a barefoot bowls event has successfully sued the club in negligence after he suffered burns to his hand when removing a mug of burning oil from beneath the BBQ.

IN ISSUE

- Defining the risk of harm in circumstances of a fat fire in a BBQ;
- Reasonable precautions the club ought take in the circumstances;
- Extent of the plaintiff's contributory negligence for grabbing a burning mug of oil.

THE BACKGROUND

The defendant was a regional bowls club that had been using a four burner gas BBQ at its barefoot bowls evenings for six years. The plaintiff had used the BBQ as a volunteer at these events at least twice, including 1 week before injuring himself. At the time of injury a makeshift method to collect the fat from the BBQ involved a ceramic mug positioned out of sight underneath the barbeque plate.

In November 2015 the plaintiff was operating the BBQ at a barefoot bowls event when, soon after he began cooking sausages, the mug overflowed and caught fire. The plaintiff turned off the gas but the contents of the mug remained alight. He put on his sunglasses, looked under the BBQ, wrapped his hand in paper towel and reached under the BBQ to remove the mug. As he moved the mug from beneath the BBQ it caught on an upturned corner of the tray that held the cup. Hot oil spilt onto his hand causing a burn injury, subsequent major depression and alcohol dependence.

THE DECISION

In assessing whether there had been a breach of duty in accordance with s11 of the *Civil Liability Act 2002* (Tas), the court identified the risk of harm quite specifically as the risk of a person suffering a burn injury caused by removing or trying to remove the mug from the tray

under the BBQ when it was full and on fire. The court declined to identify the risk of harm more broadly, such as the risk of a person suffering a burn injury caused by a BBQ related fire.

A contentious issue was the likelihood of people in the plaintiff's position acting in the same way by trying to remove the mug rather than simply leaving it alone. The defendant contended that was not a reasonable or rational response. The court disagreed, finding that the plaintiff's belief that there might be an explosion and that bystanders could be injured was reasonable and relatively likely.

The court found that the defendant should have taken several precautions including: using an alternative system of fat collection such as a bigger bucket of sand; instructing volunteers to ensure that the container was emptied before each use of the BBQ; providing an oven mitt; instructing volunteers on what to do in the event of a fire including not to attempt to remove the fat container. It was noted that the defendant did have a number of fire extinguishers and a fire blanket on the premises.

Contributory negligence was assessed at 15% for the plaintiff's failure to stop and take stock of the position of the mug and tray it was sitting on before removing it.

IMPLICATIONS FOR YOU

Clubs and community organisations have a number of duties to balance: responsible service of alcohol, provision of safe access, preventing child abuse, solvent operating and so on. Such groups are usually operated by volunteers and they often rely on fundraising BBQs as a source of income. While the circumstances of this case are unique, they are likely to be familiar to a number of volunteer run not-for-profit groups. This case serves as a timely reminder to assess current response systems to ensure they respond adequately to fire risks.

Dann v Port Sorell Bowls Club Inc [2020] TASSC 47

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