

The principle of occupiers liability



As a matter of fact Ursula should be compensated for her broken arm. This problem is based on the principle of Occupiers Liability. According to Common Law, an occupier owes all his invitees and other persons who are lawfully on his premises a common duty of care. The general rule is that the university owed Ursula a duty of care. This is the duty that the university as an institution or its staff owes to students who are always at the university. The business law lecturer should have protected her from unreasonable risk that led to her injury. In this case, Isambard University owed Ursula a common duty of care, but have not discharged their duty since Ursula fell and injured her arm because the lecturer switched off the lights while she was using the stairs.

Vicenzo, the lecturer of business law did not bother to look around and see if there was a student around thereby liable for injury occasioned by his negligence. Ursula can successfully sue the university for the injuries sustained. My advice to Ursula is to sue the university for the injuries sustained. In advising her, I would follow the precedence set in the case between *Slatter v Clay Cross co Ltd* (1956) 2 Q B 264 at 269 where the facts of the case were that if a landowner is driving his car down his private drive and meets someone lawfully walking upon it he/she is under a duty to take care so as not to injure the walker; his/her duty is the same no matter whether it is his gardener coming up with his plants, a tradesman delivering his goods, a friend coming to tea, or a flag seller seeking a charitable gift. The aw was, thus, referred to the law reform committee in 1952. In the result of the committee report the occupier's liability Act 1957 was passed.

Therefore, the lecturer should have taken reasonable care of the student since she was at university legally and lawfully using the premise.

Vicenzo should not feel that he has been dismissed unfairly. This is because he acted negligently in exercising his duties. In law, a person acts negligently when he fails to exercise maximum caution to protect others from immediate harm. The legal standards of behaviour states what a reasonable person should do in a given situation. In the case of Vicenzo, he acted negligently by switching off the lights, this is not what was expected of a person of his status as he could see that there was somebody using the premise before he switched the lights off. He failed to protect Ursula, (and by extension increased the liability on the part of the university), caused harm and, therefore, his dismissal was right. He contributed to the injuries sustained by Ursula and this is what is in common law referred to as contributory negligence as illustrated in the case below which shows why Vicenzo cannot have a legal claim against the university for his dismissal.

The case between National Coal Board v England (1954 J A C 4003). The facts of the case were that a mine worker injured by the premature explosion of a detonator sued the mine owner for damages caused by the breach of statutory duty by their servant a short firer. The latter admittedly committed a breach of explosives in a coal mine as he fired without firstt ascertaining that all persons in the vicinity had taken proper shelter. The injured mine worker had also committed a breach of the regulations as by agreement with the short firer he had undertaken a coupling the cable with the detonator, a duty imposed by regulation to the short firer, when the explosion occurred. In this case, the short firer's statutory duty did not supersede his common

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law duty and he was liable, thus, rendering his employer vicariously liable. The injured mine-worker was not guilty of contributory negligence. The breach of statutory obligations imposed to ensure safety of workers and safety of students was not undertaken by the lecturer and, therefore, he has no legal claim. Furthermore, his attitude towards the student when he saw her recording his lecture is extremely much wanting. It does not go in line with the professional code of conduct. Ursula strongly believes that the lecturer is to blame for her present condition, but still he cannot allow her to tape the proceedings of the lecture. Shouting at her and using derogatory language in front of her classmates and friends was demeaning and she had a reason to get angry and get the redress from the administration. The lecturer should have acted professionally.

In conclusion, the case touches the tort. Specifically they are about negligence and the remedy available to the affected parties. They state requirements for a case to succeed as a tort and the legal cause of action that the aggrieved parties can follow to have their case addressed. It also touches the law of contract and, especially the expressed warranty and the elements of the warranty.