

Aspects of contracts and negligence for business

[Business](#)



ASPECTS OF CONTRACTS AND NEGLIGENCE FOR BUSINESS due: Letanzio Peterson, Director, Reading Plc. FROM: Nina Richmond, Attorney, Kennedy Law Firm DATE: March 21, 2014 SUBJECT: Bob the Builder's Contractor Limited and Farmer Dale Farm - Breach of the Tort of Negligence Kennedy Law Firm wished to notify Reading Plc that sanctions should be imposed on Farmer Dale Farm and Bob the Builders Contractors due to incurred loss and damages caused last summer. Reading Plc has all reasons to sanction Farmer Dale Farm and Bob the Builders Contractors for tort in negligence and vicarious responsibility as explained below Tort of Negligence Deakin et al. (2012) suggests that victims of harms caused by torts of negligence have the rights to recover their damages through lawsuits and must be able to produce relevant evidence that the actions leading to the damage were legally recognizable causes of the harm (p. 218). The tort of negligence involves damage brought about by unintentional and careless actions. We believe that Bob the Builders Limited exerted negligence by exposing Reading Plc to significant damage and not conforming to the elements discussed below. Duty of Care The duty of care is the primary element in the tort of negligence. The concept is founded on a foundation that guides the relationship between the defendant and the claimant. To test the legality of the case, there must be "reasonable foreseeable" harm, the presence of "proximity" between the parties and the justifiableness of the duty of care to be imposed (Deakin et al. 2012: 218). In this case, Bob the builders Limited did not exercise care by avoiding or causing harm. The damage caused by Joe, one of their employees was a foreseeable and careless act that could have been avoided if the employee avoided carelessness. In addition, the company could have taken necessary measures to ensure that dust did not

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affect the swimming pool. On the other hand, Farmer Dale Farm did not exercise the duty of care in relation to foreseeable harm that could be caused to the clinic during the summer season when most of its clients would be in need of the facility's swimming pool. Breach of Duty Studies by Deakin et al. (2012: 219) suggested that the liability in negligence be verified if the claimant can establish that the defendant owed them a duty of care, and there has been a violation of duty. It is evident that Farmer Dale Farm and Bob the Builders Limited owed Reading Plc the duty of care respecting the business premises and not trespassing or interfering with its activities. Therefore, the companies breached the law by not taking necessary actions and conforming to standards that were expected under the circumstances. Causation and Harm For the to be liable, the claimant must prove that particular omissions or acts caused loss or damage and the claimant must prove that the defendant caused harm and loss from the defendant's acts of negligence (Deakin et al. 2012: 219). Reading Plc can prove beyond reasonable doubt that particular acts caused them identifiable damage and loss. The farm and harvesters did not formulate measures to prevent dirt and noise from destructing Reading Plc. In addition, Joe's action of dropping a cigarette was careless. As a result, Reading Plc suffered the following losses. Financial losses incurred from withdrawal of patient's course of treatment because of effects caused by noise. Incurred expenses on swimming pool repairs Loss of property resulting from fire outbreak Vicarious Responsibility The elements of vicarious responsibilities conform to the notion that employers are supposed to be liable for their employees' actions (Deakin et al. 2012: 560). Therefore, third parties can be held responsible for the 'ability, power or responsibility to control' the actions of violators. When <https://assignbuster.com/aspects-of-contracts-and-negligence-for-business/>

implementing this law, Steel (2010) suggest that employers should be responsible for employees' tortuous acts against another person or property, and if actions are committed within their scope of employment and authority (p. 578). During the contravene of the law, Farmer Dale Farm acted as the employer to Bob the Builders Limited. Therefore, Farmer Dale Farm is a third party and should be liable for the breach because all harvesting activities were sanctioned by the farm. In addition, the farm had the ability, power and responsibility to control the Harvesters actions, but they did not. Therefore, the farm should be held responsible for the harvester's torturous acts. On these facts, the court will probably find that Bob the Builder's Contractor Limited and Farmer Dale Farm's auctioned caused damage and losses to Reading Plc. Bibliography Deakin, F., Johnston, A., & Markesinis, B. 2012. Markesinis and Deakins Tort Law. Oxford University Press. Steele, J. 2010. Tort Law: Text, Cases, and Materials. Oxford University Press.