



Stagecoach South Western Trains Ltd -v- Hind & Steel (2014)



Legal Case Study: Stagecoach South Western Trains Ltd -v- Hind & Steel (2014)

At about 12:30am on 18 December 2009, a train travelling eastwards from Staines to Feltham collided with a stem of an ash tree which had fallen onto the railway line from the garden of Rose Cottage, Staines. The train belonged to Stagecoach South Western Trains Ltd (Claimant), who brought a civil claim against the owner of the tree, Ms Hind (First Defendant) and an arborist, Mr Steel (Second Defendant) who had worked on the tree before the failure.

The cost of the damage was agreed between the parties at £325,000. The tree had extensive basal decay, which was the cause of the failure, but that decay was hidden by thick ivy growth. The tree was informally checked by the First Defendant and worked on by the Second Defendant before the failure, but the decay was not discovered.

The case was heard in the High Court in London during May 2014 and judgment was handed down on 11 June 2014 in favour of both Defendants, dismissing the case of the Claimant (High Court; Case No: [2014] EWHC 1891 (TCC); Download at www.bailii.org/ew/cases/EWHC/TCC/2014/1891.html.)

The tree experts were Ken Sheppard (Claimant), Jeremy Barrell (First Defendant) and Simon Pryce (Second Defendant).

Points of arboricultural interest:

1. Homeowner duty: Legal commentators report how the Judge held that Ms Hind's (the First Defendant) duty in respect of a tree on her land had extended no further than the carrying out of periodic inspection through informal observation. In the absence of any trigger or warning sign of problems with the tree, there was no requirement to instruct a more detailed inspection by an arboriculturist. She was not required to clear ivy to inspect the base herself or instruct an arboriculturist to do so.

2. National Tree Safety Group ("NTSG") informal observations: At paragraph 53, under Published Guidance, this judgment refers to the NTSG guidance that informal observations may be used as a means of checking trees. For this case, it was unchallenged that this was a legitimate form of inspection; it was held that Ms Hind was able to carry out such an inspection and did so properly.

This is the first judgment since the NTSG document was published that has directly referenced the informal observations approach to inspections and, no doubt, many homeowners will feel that it is a welcome clarification on the nature of their obligations. However, it does not automatically follow that larger landowners, who may have greater resources, can rely on informal observations as being sufficient for all types of circumstances. This is an aspect that still requires clarification.

3. Duty of care of arborists who work on trees: The tree had been worked on before the accident by the Second Defendant tree surgeon, Mr Steel, but he had not been asked to consider the health or safety of the tree.

The claim against him also failed because he did not owe a duty of care to warn of any structural instability, which could only have been discovered through a close inspection.



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