



Summary

The court dismissed the claims of claimant Janice Cockerill against both her employer, CKX Limited, and the occupier of the premises where she was injured, Artwise Community Partnership. The decision was a key early ruling on the implications of the Enterprise and Regulatory Reform Act (ERRA) 2013, which ended strict liability for employers who breached certain health and safety regulations.

The case revolved around the circumstances of an accident that occurred during a workplace event, where Ms. Cockerill sustained injuries. The central question was whether the defendants could be held liable for negligence under the revised framework of the ERRA 2013, which shifted the burden of proof away from employers having automatic liability in such cases.

The court examined the evidence presented, including the safety measures that were in place at the time of the incident and the actions of Ms. Cockerill herself. Ultimately, the judge found that while the accident was unfortunate, the defendants had taken reasonable steps to ensure the safety of individuals on the premises, aligning with the new standards set by the ERRA.

This ruling underscored the importance of demonstrating a clear breach of duty and causation of injury directly resulting from employer negligence, a significant shift from previous interpretations that often favored claimants. The decision highlighted the evolving landscape of personal injury litigation, where both employers and employees must navigate the complexities of proving fault and responsibility.

BACKGROUND OF THE CASE

The accident: On October 1, 2013, Cockerill, a careers adviser employed by CKX, visited premises operated by Artwise. She fell down a step connecting a lobby and kitchen, injuring her ankle. The step was marked with hazard tape, and there was a warning sign on the door, which had been propped open.

Significance of the date: The accident occurred on the same day that Section 69 of the ERRA 2013 came into force. This legislation changed the legal landscape for workplace injury claims by removing an employee's ability to sue an employer simply for a breach of statutory health and safety duties.

Legal action: Cockerill sued both her e

KEY CHANGES INTRODUCED BY ERRA 2013

Section 69 of ERRA amended Section 47 of the Health and Safety at Work Act 1974, removing the automatic right to claim civil compensation for breaches of health and safety regulations. Before ERRA, employees could rely on strict liability—meaning if an employer breached a regulation, they were liable regardless of fault.

AFTER ERRA:

Employees must now prove negligence on the part of the employer. Strict liability was removed for civil claims, though criminal liability under health and safety law remains.

The burden of proof shifted from employer to employee.
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IMPACT ON STRESS-RELATED CLAIMS

Stress claims are typically complex and rely heavily on proving foreseeability and breach of duty. ERRA has made these claims even more challenging:

HIGHER BURDEN OF PROOF:

Claimants must now show that the employer knew or ought to have known about the risk of stress and failed to take reasonable steps to prevent it.

Mere breach of health and safety regulations is no longer enough. Claimants are required to provide evidence that their employer's actions, or inactions, directly contributed to their stress-related injury. This necessitates a comprehensive demonstration of how specific workplace practices or conditions resulted in the claimant's stress, extending beyond a mere breach of regulations.

DOCUMENTATION AND COMMUNICATION:

Employees should meticulously maintain records of any communications with their employer concerning stress-related issues. This includes emails, meeting notes, and reports to HR, which can serve as essential evidence in proving negligence.

DUTY OF CARE AND SUPPORT:

Employers are expected to actively evaluate and manage workplace stress, providing support systems such as counseling services and stress management programs. The absence or inadequate implementation of these measures can be crucial in establishing negligence.



STAPLES V WEST DORSET DISTRICT COUNCIL [1995] PIQR 439

This occupier's liability case also deals with the issue of obvious risks.

Facts: The claimant slipped and fell on a slippery sea wall that was frequently wet. There were no warning signs.

Key finding: The court found the council was not liable because the danger of a wet, algae-covered surface was an obvious risk. A reasonable person could have foreseen the danger, and the council was not required to provide a warning.

Significance: The principle of no duty to warn against obvious dangers from Staples was directly cited and applied in the Cockerill judgment to support the dismissal of the claim against the occupier.

TOMLINSON V CONGLETON BOROUGH COUNCIL [2003] UKHL 47

This House of Lords case is a leading authority on occupier's liability for obvious risks, the same principle applied in Cockerill v CKX.

Facts: A young man was seriously injured after diving into a lake in a public park, despite "no swimming" signs being posted. He sued the council as the occupier.

Key finding: The court held that the council was not liable. The risk of diving into the shallow part of a lake was "obvious," and the council had no duty to warn against or prevent a recreational activity that carried an inherent and self-evident risk.

Significance: The case reinforced that occupiers do not have to protect visitors from obvious dangers. The Cockerill court applied the same reasoning, finding that the step was a patent hazard that did not require more warning.

ROSE V WNL INVESTMENTS LTD [2024] SCOTCS CSOH 38

This Scottish case further illustrates the move away from strict liability for employers and the increased focus on establishing common law negligence.

Facts: The case addressed preliminary issues, including whether the claimant was an employee or an independent contractor, in a compensation claim following an accident.

Key finding: The Scottish Court provided guidance on the relevance of health and safety regulations to a claim for common law negligence following the ERRA's changes.

Significance: Similar to Cockerill, the court examined the employer's actions under the standard of common law negligence rather than relying on a simple breach of regulation.

CHADWICK V RH OVENDEN LTD AND HAMILTON [2022] EWHC 1701 (QB)

This case, decided after Cockerill, further clarified how courts should handle employer liability claims following the 2013 Enterprise and Regulatory Reform Act (ERRA).

Facts: The claimant was injured while working on a property belonging to a third party when a gas canister, left in an unexpected place, exploded.

Key finding: The High Court found the employer negligent for failing to ensure a safe system of work, regardless of whether the employer's actions violated specific health and safety regulations.

Significance: The judgment confirmed that while Section 69 of the ERRA removed the right to claim for a simple breach of a safety regulation, the regulations themselves still inform the common law standard of care. This resolved conflicting judicial interpretations of the post-ERRA landscape.

REDUCED SUCCESS RATE:

The removal of strict liability means fewer claims succeed unless there is clear evidence of negligence. This includes failure to conduct proper risk assessments or ignoring signs of employee distress.

INCREASED LITIGATION COMPLEXITY:

More reliance on expert evidence and detailed documentation. Claims may be more costly and time-consuming.

EMPLOYER DEFENCES STRENGTHENED:

Employers can defend claims by showing they took reasonable steps to manage stress risks. This includes having policies, training, and support systems in place.

LEGAL INTERPRETATION AND CASE LAW

Courts have clarified that while ERRA removed civil liability for regulation breaches, the regulations still inform what is considered reasonable conduct by employers. So, they remain relevant in assessing negligence.

THE EVOLUTION OF WORKPLACE STRESS CLAIMS:

The legal framework for workplace stress claims has undergone significant evolution over the years. With the introduction of the Enterprise and Regulatory Reform Act (ERRA), the approach to managing these claims has transformed, placing greater emphasis on demonstrating negligence and the proactive measures undertaken by employers.

ADAPTATION TO NEW STANDARDS:

Organisations are now increasingly focused on developing robust frameworks to support employee well-being. This includes implementing comprehensive mental health policies, conducting regular stress audits, and fostering an inclusive environment where employees feel empowered to voice concerns without fear of reprisal.

THE ROLE OF OCCUPATIONAL HEALTH SERVICES:

Employers are increasingly collaborating with occupational health services to identify potential stressors and devise strategic interventions. These services play a crucial role in advising on reasonable adjustments and promoting a culture of mental resilience within the workplace.

FUTURE TRENDS IN STRESS LITIGATION:

As awareness of mental health issues continues to grow, it is anticipated that the legal system will experience further refinements in handling stress-related claims. Employers are encouraged to remain informed about legal developments and to continuously enhance their practices to mitigate risks and improve employee satisfaction.

In summary, while the ERRA has altered the landscape of workplace stress claims, it has also underscored the importance of proactive, supportive measures that align with both legal expectations and the evolving understanding of mental health in the workplace.

Cockerill v CKX Limited [2018] EWHC 1155 (QB)

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