

Health and Safety in Employment

A young and inexperienced employee worked for a small business, which did sub-contract-building work on new houses for a large construction company. He was not very fast at his job, partly because of his lack of experience. His employer, who was under pressure from the construction company to finish the job, brought this substandard performance to the young employee's attention and threatened to dismiss him if his performance had not dramatically improved by the end of the day. After this, the employee quickened his pace. At mid-day, he and a co-worker carried two sheets of gib board up a ladder to the second floor of the house they were building. They then attempted to walk across the wooden joists of the first floor ceiling to the wall of the house. However, the young employee slipped on one of the beams and fell through the ceiling to the floor below, breaking his leg in the process.

(Developed by: A/Prof. Mark Harcourt, the University of Waikato)

1. Is the employer liable under the Health and Safety in Employment legislation? Explain.
2. Is the construction company liable? Explain.
3. Did the employee contravene section 19 of the Act? Explain.
4. Did the employer take all practicable steps to protect the employee from harm? If no, what practicable steps could the employer have taken? Explain
5. Did the construction company take all practicable steps to protect the employee from harm? If no, what practicable steps could the construction company have taken? Explain
6. Did the employee take all practicable steps to protect the employee from harm? If no, what practicable steps could the employee have taken? Explain
7. Consider the requirements for procedural fairness in employment law. How should have the employer addressed the employee's substandard performance, and how does this link in with question one?