

SUPREME COURT OF NOVA SCOTIA
Citation: *Saulnier v. Diamond*, 2015 NSSC 346

Date: 2015-11-26
Docket: HFX No. 315607
Registry: Halifax

Between:

Dana Andrew Saulnier

- and -

Barry Diamond and Dorothy Diamond

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Judge: The Honourable Justice Allan P. Boudreau

Heard: November 23, 24, 25 and 26, 2015 in Halifax, Nova Scotia

Written Decision: November 30, 2015
(oral decision was rendered on November 26, 2015)

Subject: Negligence - Negligent Misrepresentation - Occupier's Liability - Proof of Damages

Summary: The Plaintiff, Dana Saulnier, fell off a ladder while attempting to assess the work to be done to repair the chimney on the house belonging to the Defendants, Barry and Dorothy Diamond. As a result of the fall Mr. Saulnier suffered significant physical injuries. The ladder used by Mr. Saulnier for his attempted assessment of the required chimney repairs was supplied on site by Mr. Diamond and provided to Mr. Saulnier by Mr. Diamond's son-in-law,

Barry Harnish. Mr. Saulnier has sued the Diamonds as the owners of the house in question, alleging a breach of certain provisions of the **Occupier's Liability Act** and/or the common law of negligence. He claims the Diamonds are liable for the injuries and resulting losses which he has suffered.

- Issue:**
1. Are the Defendants liable to the Plaintiff for the injuries he suffered on August 28, 2003: (a) At common law in negligence and/or negligent misrepresentation; or (b) By virtue of the **Occupier's Liability Act**;
 2. If the answer to either questions 1(a) or 1(b) is yes, then what are the damages which flow from the liability?

Result: Found both parties equally liable. Assessed total damages at \$75,500 and awarded Plaintiff half, being \$37,750. Each party shall bear their own costs.

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