
Volunteer Firefighters Fail To Size Up The Scene

Reported Case:	<i>Schouten v. Rideau</i>
Citation:	2009 ONCA 541
At Issue:	Standard of care applicable to volunteer firefighters
The Court:	Ontario Court of Appeal
Judgment Rendered:	July 6, 2009
Factual Summary:	This was a fire loss claim where the defendant township was being sued for the alleged failure of its volunteer firefighters to properly fight the fire. The fire destroyed barns and silos and a corn crop on a farm property. The plaintiffs alleged that the township and two of its volunteer firefighters failed to "size up" the scene, and thereby implement a "fire attack" plan that would have prevented the spread of the fire to the stored corn.
Disposition Lower Court:	The trial judge expressed the standard of care applicable to volunteer firefighters in these terms:

In summary, consistent with established tort principles, the standard of care is one of reasonableness in the circumstances. This will include a consideration of the circumstances of the fire, the relative availability of hydrants or alternative water supplies, the equipment available, the number of firefighters, their abilities, training and experience, and the many safety issues which arise at any scene. Concisely put, the standard of care is the following:

The volunteer fire department must perform in a manner which is reasonable for a volunteer Fire Department in like circumstances and with like resources.

Trial judge found that the defendants had failed to meet a "professional standard" by failing to carry out an adequate "size up" of the fire scene, they did exercise reasonable judgment in the "formulation and implementation" of the fire attack plan and the plan itself was reasonable. He also held that the plaintiffs had failed to establish, "to the requisite civil standard of proof, that the silos (and, hence, the corn crop) would have been saved had the fire attack plan recommended by the [plaintiffs] been implemented".

Appellate Decision: A new trial was ordered. The Court found his findings were contradictory and inconsistent, and the causation analysis was incomplete, and these deficiencies could only be resolved by a new trial.

It was inherently contradictory for the trial judge to find the scene was not properly assessed but then go on to hold that the fire attack plan was reasonable for a volunteer fire department "in like circumstances and with like resources".