December 2012

Tyre fire courts controversy on who pays the bill

Commercial property owners and tenants are being urged to check their insurance obligations following a Court of Appeal ruling which refused a compensation pay out when fire had spread to neighbouring premises.

The Court of Appeal ruled in the case of Stannard (t/a Wyvern Tyres) v Gore[1] that a tyre-supply company was not liable to the owner of the adjoining premises when a fire broke out and destroyed both units.

The tyre supply company stored about 3,000 tyres on its premises and when an electrical fault started a fire, the tyres were soon blazing and it was impossible to put the fire out, soon spreading to the adjacent unit.

It is a basic legal principle that a person cannot be liable for damage caused to another unless they intended to cause the damage or have been negligent. In this case there was no suggestion of negligence on the part of the tyre company, but when the case was first heard in the county court, the tyre company was found liable under a long-standing rule known as Rylands v Fletcher.[2]

This was a 19th century case in which a reservoir that had been constructed for Rylands burst through some old shafts and flooded a coal mine owned by Fletcher. There was no negligence on the part of Mr Rylands but the House of Lords held that a person could be liable without any fault on their part if he brings an exceptionally dangerous thing onto his property, the use of the property is unusual, and the dangerous thing escapes and damages other property.

When Wyvern Tyres challenged the first decision, the case ended up in the Court of Appeal where the County Court ruling was overturned. The judges said that the

[1] Stannard (t/a Wyvern Tyres) v Gore [2012] EWCA Civ 1248
[2] Rylands v Fletcher 1868 UKHL

© December 2012 Simcocks

conditions for liability under Rylands v Fletcher were not fulfilled: no one would describe tyres as exceptionally dangerous, and the thing that escaped and caused damage to the neighbour was the fire, not the tyres, and the fire had not been brought onto Mr Stannard's land.

According to Simcocks director Irini Newby who leads the commercial property department, the ruling in this latest case comes as no surprise.

She said: "The rule in Rylands v Fletcher has always been controversial. Legal academics criticise it because the idea of liability without fault is anathema. And back in the 19th century it was heavily criticised as putting a brake on enterprise and wealth creation.

"We are more used to risk-assessment obligations nowadays, and the lesson from environmental disasters over the past 50 years is that companies storing dangerous materials, whether it is a slag heap, a chemical factory or a nuclear plant, must accept their responsibilities and pay the price if they get it wrong.

"We are also more litigious and there's a greater expectation of a result if you take action against someone. But the courts prefer to leave it to Parliament to dictate sanctions through environmental legislation and have resolutely refused to expand the rule in Rylands v Fletcher beyond its narrow limits, so it's not surprising the Court of Appeal overturned the County Court ruling in this case."

Irini added: "What's important is that commercial owners and tenants realise they're not going to be able to blame someone else in this sort of situation, and make sure their insurance is robust and meets all their obligations for property, plant and machinery right through to business interruption."

Irini Newby

Contact Us:

For further information please contact Irini Newby at Simcocks by telephone +44 1624 690300 or by email at inewby@simcocks.com

Ridgeway House
Ridgeway Street
Douglas
Isle of Man
IM99 1PY
Tel: +44(0)1624 690300
Fax: +44(0)1624 690333

© December 2012 Simcocks

Web: www.simcocks.com

The above material is of a general nature only. It does not constitute legal advice nor does the distribution or receipt of this material create a client-advocate relationship. Readers should seek specific advice in relation to any decision or course of action.

© December 2012 Simcocks