

PERRIN and PERRIN DU MANITOBA LTD. v.
COMMONWEALTH HOLIDAY INNS OF CANADA
LIMITED and WINNIHOTEL INVESTMENTS LTD.
(Suit No. 2/86)

INDEXED AS: PERRIN et al. v.
COMMONWEALTH HOLIDAY INNS OF CANADA
LIMITED and WINNIHOTEL INVESTMENTS LTD.

Manitoba Court of Appeal
Monnin, C.J.M., Matas and Huband, JJ.A.
May 13, 1986.

Counsel:

J.L. Sinclair, for the appellant;
M.D. Werier and M.G. Finlayson, for
the respondents.

This appeal was heard before Monnin, C.J.M., Matas and Huband, JJ.A., of the Manitoba Court of Appeal on May 13, 1986, when the following decision was delivered by Huband, J.A.

[1] Huband, J.A.: This is an appeal by the corporate plaintiff from the judgment of Kroft, J., who dismissed the plaintiff's claim at trial, with costs. The claim results from a fire which occurred on the ninth floor of the defendant hotel on July 6, 1980. The fire was started by an arsonist. In the process of extinguishing the blaze, the Winnipeg Fire Department used large quantities of water, some of which drained down through the building. The corporate defendant leased space on the mezzanine floor of the hotel. The plaintiff, Lou Perrin, is a commercial photographer, and in his studio he had a box of negatives which were damaged by the water. The plaintiffs claim that these negatives were of considerable value.

[2] The key argument with respect to liability, on the appeal, was that the alarm system in the hotel did not function on a timely basis, and hence when the fire was discovered it required a heavier and longer drenching of water, which in turn caused large

quantities of water to leak or flow through the building, which in turn caused damage to the plaintiffs' property on the mezzanine floor.

[3] We are far from certain, on the evidence, that the alarm system failed. Even if it did, we are far from certain that such failure affected the extent of damage to the plaintiffs' negatives. What we are certain of is that the hotel had a reasonable procedure to ensure that there was an operating fire prevention and alarm system in the building.

[4] On this and other points which were raised in argument before us, we are in agreement with the learned trial judge, that the defendants' conduct was reasonable, and that there was no failure on their part of any duty towards the plaintiffs which would constitute negligence.

[5] There is no need to deal with the issue of damages.

[6] The appeal is dismissed with costs together with a factum fee of \$100.

Appeal dismissed.