

107 Manitoba Reports (2d) 240  
(107 Man.R.(2d) 240)

109 Western Appeal Cases 240  
(109 W.A.C. 240)

Jake Friesen (plaintiff/appellant)  
v. The Rural Municipality of  
de Salaberry (defendant/respondent)  
(Suit No. AI 95-30-02103)

Indexed As: Friesen v. de Salaberry  
(Rural Municipality)

Manitoba Court of Appeal  
Scott, C.J.M., Huband and Monnin, JJ.A.  
December 19, 1995.

Summary:

The plaintiff lost control of his pickup truck as it was rounding a curve on a gravel road in the defendant municipality. The plaintiff was seriously injured and sued the municipality for damages, claiming that it had constructed and maintained a dangerous curve and should have given appropriate warnings to the public.

The Manitoba Court of Queen's Bench, in a decision reported 98 Man.R.(2d) 192, dismissed the action. The plaintiff appealed.

The Manitoba Court of Appeal dismissed the appeal.

Municipal Law - Topic 1731

Liability of municipalities - Highways and streets - Dangerous highway conditions - Warning of danger - The plaintiff lost control of his pickup truck as it was rounding a curve on a gravel road in the defendant municipality - The plaintiff sued the municipality for damages, claiming that it had constructed and maintained a dangerous curve and should have given appropriate warnings to the public - The trial judge dismissed the action - The existence of the curve was obvious to the plaintiff, the superelevation was not markedly inadequate, the only defect in the road was a subtle compound curve and the situation generally was not so compelling as to impose a duty on the municipality to erect warning signs - The Manitoba Court of Appeal affirmed the decision.

Counsel:

D.M. Troniak, for the appellant;  
M.G. Finlayson, for the respondent.

This appeal was heard on December 19, 1995, before Scott, C.J.M., Huband and Monnin, J.J.A., of the Manitoba Court of Appeal. On the same date, Scott, C.J.M., delivered the following oral decision for the Court of Appeal.

[1] Scott, C.J.M. [orally]: We are in agreement with the reasons for judgment of the trial judge. The appeal is dismissed with costs.

Appeal dismissed.

Editor: Kelli A. Simmonds/pdk