

CASE NOTE:

DENNIS V. VOUTE SALES LTD [2022] WLUK 360

27 May 2022

In *Dennis v Voute Sales Ltd* [2022] WLUK 360 HHJ Howells sitting as a Judge of the High Court was required to determine the correct approach to s2(2)(a) of the Animals Act 1971.

The Claimant, a groom engaged by the Defendant to assist at Tattersalls Sales, suffered a serious injury to her knee whilst leading a horse from its stables. There was a factual dispute as to whether the accident occurred as a result of the horse spooking, or as a result of the Claimant tripping. This was resolved in favour of the Defendant. The claim therefore failed on the facts.

However, the Judge also considered the contentious issue of how section 2(2)(a) of the Act should be determined. The first limb of 2(2)(a) required the Court to be satisfied that *'the damage is of a kind which the animal, unless restrained was likely to cause'*. There were rival contentions as to how this requirement should be interpreted. The Claimant's case was that the approach adopted in *Lynch v Ed Walker Racing Ltd* [2017] EWHC 2484 should be followed. In *Lynch* it had been conceded that it was *not* necessary for each of the requirements in sections (a), (b) and (c) to be considered sequentially, and that the first limb of 2(2)(a) should be considered *'by reference to the characteristics relied on for the purpose of paragraph b'*. The Claimant accordingly argued that the Court should consider the horse's characteristics as displayed during the incident when asking whether injury was likely.

In contrast, the Defendants argued that pursuant to the Court of Appeal decisions in *Curtis v Betts* [1990] 1 WLR 459 and *Smith v Ainger* [1990] WLUK 192 each sub-section of s2(2) should be considered sequentially, and that words should not be read into s2(2)(a) *'through a process of implication effected by reference to succeeding requirements.'* The concessions made in *Lynch*, it was contended, were wrong. The Defendants argued that the Court should simply ask the more general question of whether the horse, unless restrained, was likely to cause personal injury.

The Court accepted the Defendant's interpretation. Consequently, the Judge held that even if the Claimant's version of the accident had been accepted the claim would have failed as there was no evidence that the horse was likely to cause personal injury and the experts did not support the Claimant's alternative case under the second limb of s2(2)(a).

This is a significant decision as the Claimant's approach, if accepted, would have significantly lowered the bar for claims to succeed under the Animals Act 1971.



Roger Harris

rharris@2tg.co.uk

+44 (0)20 7822 1200



Roger Harris
rharris@2tg.co.uk
+44 (0)20 7822 1200

Roger Harris

Roger is an experienced advocate who is recommended by the legal directories in the fields of clinical negligence and personal injury. He is also well known for his expertise in litigation relating to animals and farming.

Described in Chambers UK as *"fantastic"* and *"excellent on his feet"* and in Legal 500 as *"a formidable force"*, he has been praised *"by solicitors and peers alike for his technical expertise, communication skills and ability in negotiations"*, he is *"very approachable and very bright"* and provides *"excellent analysis of complex insurance and liability issues"*.

To view Roger's full website profile, please click [here](#)

CONTACT US



Lee Tyler
Senior Clerk
ltyler@2tg.co.uk
+44 (0)20 7822 1203



Leanne Taylor
Deputy Senior Clerk
ltaylor@2tg.co.uk
+44 (0)20 7822 1204



Billy Hammonds
Deputy Senior Clerk
bhammonds@2tg.co.uk
+44 (0)20 7822 1213

"Outstanding service" (Legal 500)

"On the ball, courteous and efficient" (Chambers UK)

"Approachable, modern and commercial in their outlook" (Chambers UK)

FIND US

Address

2 Temple Gardens
London EC4Y 9AY

Telephone

+44 (0)207 822 1200

Fax

+44 (0)207 822 1300

Tube

Temple (Circle & District)
Blackfriars (Circle & District and Thameslink rail)

DX

134 Chancery Lane

Rail

Blackfriars
City Thameslink