

Withers v Perry Chain Co Ltd [1961]

Evidence

This case is about an employer's duty of care. It is important to decide whether employees susceptible to certain injuries shall be accepted to work in injury-provoking occupations.

Ms Withers, the plaintiff, was employed by Perry Chain Co Ltd, the accused, to do bicycle hub assembly at their company. The plaintiff suffered from an episode of dermatitis after she had started to work with grease. The employer assigned her the driest work available at the factory but still, the plaintiff had three more episodes of dermatitis. Every time, she came back to the workplace and did her duties without protest. The plaintiff demanded to compensate damages, as the employer failed to protect her from working with irritating substances.

Problematics

The accused was under a duty to ensure safe work conditions under *Wilson & Clyde Coal Co v English* [1938] AC 57. The plaintiff claimed that her employer had breached this duty, as they assigned her to work with irritating substances after they had known about her condition. The accused insisted the company did not breach any duty, as the plaintiff voluntarily continued working with irritating substances.

Resolution

The claim of the plaintiff failed. An employer has no duty of care to an adult employee who voluntarily agrees to work with dangerous substances. In this case, the employee should weigh the risk of dealing with irritating substances against the benefit of getting a salary for this job. The responsibility for one's safety, therefore, lies on the employee in this case.

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