

Wendy Anne Hearn

Summary

Incident description:

On 2 October 2008, a 35 year old worker sustained fatal injuries when solar panels fell on him during a loading process.

The court acknowledged Wendy Anne Hearn was an executive officer of CEK Enterprises Pty Ltd (in liquidation), which was convicted and fined before the Brisbane Industrial Magistrates Court on 2 September 2009. CEK Enterprises Pty Ltd operated a wholesale plumbing products business which required moving and loading solar panels.

The court found the defendant held obligations under s.167 of the Workplace Health and Safety Act 1995 being an executive officer of a corporation.

The incident occurred while a worker was assisting in moving solar panels from a forklift to a trailer. A forklift was used to place the pack of solar panels at the rear of the trailer where the plastic wrap and straps holding the pack together were removed. The forklift was then used to raise eight of the pack of ten panels about 960 mm so that it was about level with the floor of the trailer. This enabled easier loading of the solar panels. The worker was asked to stand at the back of the pack and reach up to stabilise the pack while the solar panels were loaded onto the trailer. The worker was supporting five solar panels when the solar panels fell on him, knocking him to the concrete floor.

The investigation findings presented to the court revealed:

- the panels did not lean back against the forklift mast but instead faced the side of the forklift
- the tynes of the forklift were 350 mm apart to support the pallet and its load
- there was a further 285 mm range of movement outwards for each tyne
- when the pallet of ten was loaded, the weight was spread across both tynes and was balanced
- as each panel was unloaded from the trailer side, the load gradually centred more to the left
- as the fifth panel was unloaded, all of the remaining weight was to the left side of the forklift balanced over the left tyne
- the left side of the pallet dropped which unbalanced the load and caused the solar panels to fall
- if the tynes were spread to their maximum this may not have occurred
- if the pallet was not raised up off the floor the weight shift may not have occurred
- the centre of mass of the load was about two metres above the floor and was too high for the worker to provide stabilization
- five solar panels weighing a total of 210 kg fell from the pallet
- there were no measures in place to ensure stability of the solar

panels while at height on the forklift

- this was the first time the worker was involved in this task, and
- the company did not identify the hazard of unstable solar panels at height and had not undertaken any risk assessment in respect of the task.

Court result:

The defendant pleaded guilty in the Brisbane Industrial Magistrates Court on 24 February 2010 to breaching s.24(1)(b) of the Workplace Health and Safety Act 1995, having failed to meet her workplace health and safety obligations.

Industrial Magistrate Mr Brian Hine ordered the defendant pay a penalty of \$5 000 as well as costs of court totalling \$65 40.

In reaching a decision, Industrial Magistrate Hine acknowledged the defendant failed to manage the hazards of unstable and unsecured solar panels at height on a forklift and the system of work for moving solar panels at height using a forklift.

In deciding the penalty imposed the court took into account the defendant's good character, absence at the time of the incident and cooperation with the investigation. The defendant was sentenced with no conviction recorded.

Considerations for prevention:

(Commentary under this heading is not part of the Court's decision.)

When working in the retail and wholesale industry where there is exposure to risks from falling or unstable objects, obligation holders should apply a risk management approach to ensure the selection of suitable control measures.

Risk management involves identifying the hazards, evaluating the consequences and likelihood of harm that may result from the hazard, deciding on and implementing control measures to prevent or minimise the level of the risk from the hazard and monitoring the effectiveness of the control measures to ensure they remain working correctly.

When deciding on and implementing control measures to manage the level of risk from falling or unstable objects, obligation holders should consider:

- using containment measures that ensure stability such as:
 - fixed steel bollards
 - fixed post pallets
 - specialised pallets and cradles.
- substituting manual tasks with mechanical aides (e.g. hoists, gantry cranes, drum lifters)
- pedestrian exclusion zones in and around the potential drop zone
- training all staff in manual tasks
- implementing training for all workers for inductions and safe work procedures
- ensuring plant (e.g. forklift) is operated by licensed operators only
- supplying and enforcing the use of personal protective equipment near drop zones and mobile plant use (e.g. steel cap boots, hard hats).

Visit the Workplace Health and Safety Queensland website for information on:

- [health and safety information for retail and wholesale](#)
- [forklift trucks](#)
- [guidelines for working around trucks - loading and unloading](#) (PDF, 197kB)
- [Modifying plant, machinery or equipment](#)
- [managing risk](#)
- [employer training options](#)
- [personal protective equipment \(PPE\)](#)
 - [developing a PPE plan](#)
 - [selecting PPE](#)
 - [using PPE](#)
- [employers guide to manual tasks](#) (PDF, 353kB)
- [manual handling](#)
- [crane and hoist licensing requirements](#)
- [forklift licensing requirements](#)
- [Plant Code of Practice 2005](#)
- [Manual Tasks Code of Practice 2010](#)
- [Risk Management Code of Practice 2007](#)
- [Workplace Health and Safety Act 1995](#).

Details

Industry: Retail and Wholesale

ANZSIC code: 4799

Defendant: Wendy Anne Hearn

Defendant ACN: N/A

Date of offence: 2 October 2008

Location of offence: Geebung

Injury: Fatal head injuries

Circumstance of aggravation: Fatality

Court: Brisbane Industrial Magistrates Court

Magistrate: Mr Brian Hine

Legislation: s.167 Workplace Health and Safety Act 1995

Plea: Guilty

Decision date: 24 February 2010

Penalty: Fined \$5 000

Maximum fine \$75 000
available:

Investigation -
costs:

Professional -
and legal
costs:

Court costs: \$65.40

In default No period defined to pay, matter referred to SPER for
period to pay: registration for time to pay

Conviction No
recorded:

CIS event no.: 84999