

**IN THE PROVINCIAL COURT OF NOVA SCOTIA**

**Citation:** R. v. Meridian Construction Inc., 2004NSPC51

R. v. London, 2004NSPC51

**Date:** 20041018

**Docket:** 1306087-89 & 1306080-81

**Registry:** Kentville

**Between:**

Her Majesty the Queen

v.

Meridian Construction Inc.

And between:

Her Majesty the Queen

v.

Mr. Donald London

---

**LIBRARY HEADING**

---

**Judge:** The Honourable Judge Alan T. Tufts

**Heard:** Feb. 10, 11, 12, 16, 17, 25, 26, June 9, 2004

**Written Decision:** October 18, 2004

**Subject:** **Occupational Health and Safety Act  
Fall Protection and Scaffolding Regulations**

**Summary:** **During the construction of the Avonview School a worker, while helping to move a ladder, fell backwards onto a skylight opening covered only with rigid styrofoam board insulation. He went completely through the opening and fell approximately thirty feet onto an ice-covered concrete floor. He died as a result of the injuries he sustained from this fall.**

**The defendants were charged with failing to take every precaution that was reasonable in the circumstances to ensure that a method of fall protection was in place at the skylight openings through which the worker fell and failing to take every precaution that was reasonable in the circumstances to ensure that guardrails were installed as prescribed by the Fall Protection and Scaffolding Regulations. One defendant also faced charges for failing to take corrective action for hazards identified by workers at the workplace.**

**Issue:**

**Did each defendant fail to take every precaution that was reasonable in the circumstances to ensure that a method of fall protection was in place at the skylight openings;**

**Were guardrails required at the second floor mezzanine; was the second floor mezzanine a work area, and did the defendant fail to ensure that guardrails, if required, were in place;**

**Other safety issues involved whether the defendant Meridian Construction Inc failed to take every reasonable precaution to ensure the health and safety of persons at or near the project by failing to take corrective actions for hazards identified by workers, including:**

**Unsecured skylight and roof openings;  
Ice and snow covered floor areas in the building;  
Unguarded edges of floor slabs;  
Insufficient lighting in the building, and  
A lack of fall protection at the edge of roofs and floors.**

**Result:**

**Each defendant found guilty of the first count on the Informations in that they failed to take every reasonable precaution that was reasonable in the circumstances to ensure that a method of fall protection was in place at the skylight openings as prescribed by the Regulations. It was found that each failed to:**

1. ensure that the skylight openings were properly secured after the need to do same was brought to the attention of the defendant London;
2. ensure that regular toolbox meetings were held wherein safety issues would be raised, documented and forwarded to the JOHS meetings and thereby to the attention of the defendants and other safety officers whose responsibility it was to take corrective action;
3. ensure that a proper inspection of the work of the subcontractor was completed relative to the skylight opening given the temporary nature of the work; ie., the covering and the inherent danger surrounding it;
4. ensure that a system of formal reporting of safety concerns was in place for the workers which would have allowed a record and reporting of concerns relative to the skylight opening thereby ensuring this concern was brought to the attention of the defendants and other safety officers.

**Each defendant found not guilty of the second count on the Informations regarding whether a guardrail was required around the second floor mezzanine area. Concluded this area not a work area and accordingly guardrail not required.**

**Relative to Count three on the Information regarding the defendant Meridian Construction Inc. is found not guilty with respect to the other safety issues raised regarding the workplace.**

***THIS INFORMATION SHEET DOES NOT FORM PART OF THE COURT'S DECISION.  
QUOTES MUST BE FROM THE DECISION, NOT THIS LIBRARY SHEET.***