

SUPREME COURT OF NOVA SCOTIA

Citation: Roscoe v. Halifax (Regional Municipality), 2011 NSSC 485

Date: (20111229)

Docket: Hfx 307889

Registry: Halifax

Between:

Elizabeth Roscoe

Plaintiff

v.

Halifax Regional Municipality

Defendant

Judge: The Honourable Justice Pierre L. Muise

Heard: April 26 and 27, 2011, in Halifax, Nova Scotia

**Final Written
Submissions:** May 4, 2011

Summary: Roscoe was playing badminton. Her right foot was suddenly stopped at a spot where there was a piece of duct tape stuck to the floor. Medical examination revealed she had a torn meniscus. She underwent a variety of therapy and treatment, including arthroscopic surgery. Within 14 months, she returned to most of her pre-incident activities, with some residual effect.

Halifax Regional Municipality (“HRM”) was the owner and occupier of the gym in which Roscoe was playing badminton. Weekdays, the Halifax Regional School Board (“HRSB”) used it during the day and HRM used it evenings.

HRM had no system in place for cleaning, nor inspecting, the gym when it was turned over to it for evening use. There was no evidence that, on the evening of the incident, any such cleaning or inspection was carried out.

- Issues:**
1. Did HRM breach the standard of care it owed Roscoe?
 2. If so, did the breach cause Roscoe's injury?
 3. Was Roscoe contributorily negligent?
 4. What is the appropriate amount for general damages?

Result:

HRM knew tape had previously been used on the gym floor during daytime activities. Tape on the floor was a foreseeable hazard to badminton players. HRM did nothing to see that the gym was clear of tape, and other foreign objects, after it took over the gym from HRSB and before evening use began. It, therefore, failed to meet the standard of care it owed Roscoe.

The duct tape is what stopped Roscoe's foot and caused the meniscal tear. A reasonable cleaning and/or inspection would have resulted in the detection and removal of the duct tape. Therefore, HRM's breach caused Roscoe's injury.

Roscoe had no knowledge of the prior use of tape in the gym. It is not a hazard she would reasonably have expected and thought to keep a look-out for. She was not contributorily negligent in not inspecting the floor for tape.

General damages of \$25,000 were awarded.