



SUBSCRIBE TO RECEIVE FUTURE UPDATES [HERE](#).

In This Issue:

- 1. No Occupiers’ Liability on Dog Bite that was Sudden and Unforeseeable**
McConville v. McConville, 2026 BCSC 29.....2
- 2. No Occupiers’ Liability in Slip and Fall Where Presence of Ice Could Not be Proven**
Riggs v. 0838782 B.C. Ltd., 2026 BCSC 520.....3
- 3. No Occupiers’ Liability for Dog Attack Through a Fence**
Howse v. Coulton, 2026 BCCRT 153.....5
- 4. No Occupiers’ Liability for Burns from Hot Oatmeal**
Hannon v. Air Canada, 2026 BCCRT 116.....6
- 5. Breach of Standard of Care Found for Mold in Residence**
James v. Stankovic, 2026 BCCRT 442.....7

1. *McConville v. McConville*, 2026 BCSC 29

Background

The Plaintiff was injured by a dog while attending a family gathering at the Defendant's home. The Plaintiff alleged that the Defendant was legally responsible for the injuries on the basis of scienter, negligence, and occupiers' liability, arguing that the Defendant knew or ought to have known that the dog posed a risk to guests and failed to take reasonable steps to prevent harm. The Defendant denied ownership or control of the dog, denied knowledge of any dangerous propensity, and asserted that the incident was sudden and unforeseeable.

Facts

The Plaintiff attended a family gathering at one of the Defendant's residences, where a dog owned by the Defendant's adult daughter was present. The dog had attended multiple prior family gatherings without incident and was generally regarded as calm and non-aggressive. While attempting to leash the dog during the gathering, the Plaintiff was suddenly bitten on the arm, sustaining painful puncture wounds.

Decision

With respect to occupiers' liability, the Court confirmed that a homeowner owes a duty under the *OLA* to take reasonable care to ensure that lawful visitors are reasonably safe on the premises. However, liability under the *OLA* requires foreseeability: the occupier must have known, or ought reasonably to have known, of a danger and failed to take reasonable steps to prevent harm.

Applying this standard, the Court found that the Plaintiff failed to establish that the Defendant knew or ought to have known that the dog was likely to cause injury. The evidence showed that the dog had never previously bitten or attacked a person, and that earlier incidents described by the Plaintiff reflected overstimulation in crowded environments rather than aggression. The Court characterized the bite as a sudden and unforeseeable act.

The Court once again relied on appellate authority from *Janota-Bzowska* confirming that an occupier is not liable under the *OLA* for an unexpected, violent act by an animal that is inconsistent with its known habits, and where the risk of harm was not reasonably foreseeable. The Court also rejected the argument that a higher standard of care applied based on the dog's breed, requiring expert evidence before coming to a conclusion that any breed of dog may be deemed vicious.

Conclusion

The Court concluded that the Plaintiff had not met her burden of proving occupiers' liability under the *OLA*. The Defendant had no reason, based on her knowledge, to foresee that the dog posed a risk to guests, and therefore had no obligation to take additional preventative measures. As the risk was not reasonably foreseeable, no breach of the *OLA* was established, and the action was dismissed with costs to the Plaintiff.

2. *Riggs v. 0838782 B.C. Ltd.*, 2026 BCSC 520

Background

The Plaintiff was a tenant in a residential apartment building owned and managed by the Defendants. One winter morning, the Plaintiff slipped and fell on an exterior wooden walkway while exiting the building, suffering a broken wrist. The Plaintiff alleged that the fall was caused by ice that had accumulated on the walkway and claimed that the Defendants, as occupiers of the premises, breached their duties under the *OLA*.

Facts

On the morning of February 14, 2023, the Plaintiff exited her apartment building using an exterior wooden walkway and fell, breaking her wrist. She claimed that she slipped on ice that had accumulated on the walkway, allegedly caused or worsened by a disconnected downspout, inadequate sanding or salting, and the absence of non-slip strips along much of the walkway.

The Plaintiff relied on her own evidence, photographs taken after the fall, and an engineering expert who opined that ice “may have formed” given weather conditions. The Defendants denied there was ice on the walkway and relied on detailed climate expert evidence, which concluded that ice formation at that location and time was very unlikely.

Decision

The Court’s analysis focused squarely on the *OLA*. It was undisputed that all Defendants were “occupiers” of the premises within the meaning of the *OLA* and therefore owed a duty to take reasonable care to ensure the premises were reasonably safe. The applicable standard was reasonableness, not perfection, and the Plaintiff bore the burden of proving both the existence of a hazardous condition and that the condition resulted from a breach of the occupiers’ duty.

The Court emphasized that, in a slip-and-fall claim under the *OLA*, an occupier is not presumed negligent simply because an injury occurred. The Plaintiff had to establish, on a balance of probabilities, what specific hazard caused the fall and that the hazard existed because the Defendants failed to act reasonably in the circumstances.

After an extensive review of both expert and lay evidence, the Court found that the Plaintiff failed to prove that ice was present on the walkway at the time of the fall. The Court preferred the Defendants’ climate expert evidence, which concluded that ice formation on the walkway was very unlikely given the weather conditions, building overhang in the vicinity, and lack of precipitation overnight. The Plaintiff’s expert evidence was found to be equivocal and less persuasive.

The Court also rejected the Plaintiff’s and her spouse’s testimony regarding the presence of ice, finding it speculative, inconsistent, and not supported by contemporaneous photographs. Because the Plaintiff failed to establish the existence of the alleged hazard, the Court held that no *prima facie* breach of the *OLA* was proven. Thus, it was unnecessary to assess whether the Defendants’ maintenance system was reasonable or properly followed.

Conclusion

The Court concluded that the Plaintiff did not satisfy the threshold requirement under the *OLA* to prove the existence of a hazardous condition that caused her fall. Without proof that ice was present on the walkway, liability under the *OLA* could not be established. Accordingly, the claim was dismissed.

3. *Howse v. Coulton*, 2026 BCCRT 153

Background

The Applicant and the Respondent were neighbouring property owners who both owned dogs, and shared a common fence. While both dogs were in their respective backyards, the Respondent's Dog injured the Applicant's Dog through or at the fence line, causing serious veterinary injuries. The Applicant sought compensation for related expenses, alleging that the Respondent was legally responsible for the incident. The Respondent denied liability and asserted that the Applicant's Dog had encroached into the Respondent's fenced yard through a hole in the fence.

Civil Resolution Tribunal ("CRT") Jurisdiction

This case was brought pursuant to the *Civil Resolution Tribunal Act*. The Civil Resolution Tribunal ("CRT" or "Tribunal") has jurisdiction over small claims worth \$5,000 or less. The CRT's mandate is to provide dispute resolution services in an accessible, quick, economical, and informal manner, with some flexibility. The CRT most often determines cases based solely on documentary evidence and submissions, as it did in this case.

Decision

The CRT considered the Respondent's liability under scienter, negligence, and the *Occupiers Liability Act* ("OLA"). The CRT held that the doctrine of scienter did not apply because the Respondent's dogs attacked another dog, as compared to attacking another person. The CRT also did not find any liability in negligence, and then considered whether the Respondent was liable under the OLA. It found that the Respondent was an "occupier" because the incident occurred in the Respondent's backyard, and therefore he owed a duty extending to protecting property, such as pets, from objectively unreasonable risks of harm.

The Tribunal focused on the condition of the shared fence along with the Respondent's conduct. Evidence showed that the Respondent had reinforced their side of the fence with galvanized sheet metal to address deterioration and prevent access between the properties. The Applicant alleged this repair created a hazard due to sharp edges and contributed to the injuries. The Tribunal rejected this argument, finding no inherent danger in the Respondent's fence reinforcement and no persuasive evidence that it created an unreasonable risk.

The Tribunal further found that the incident occurred at an unrepaired hole in the wooden fence visible from the Applicant's side, which the Applicant could have remedied. In the circumstances, the Respondent's steps to reinforce the fence were reasonable, and the Applicant failed to establish a breach of the statutory duty of care.

Conclusion

The Tribunal concluded that the Applicant did not prove that the Respondent breached their duty under the OLA. The Respondent was found to have taken reasonable precautions and not to have created an objectively unreasonable risk on the premises. The claim was dismissed in its entirety.

4. *Hannon v. Air Canada*, 2026 BCCRT 116

Background

The Applicant was a passenger at Vancouver International Airport who accessed the Respondent's airport lounge while waiting for an international flight. While serving himself oatmeal from a self-serve heated container in the lounge, the Applicant suffered burn injuries to his hand. He sought damages for medical expenses and pain and suffering, alleging that the Respondent, as occupier of the lounge, was responsible under the *OLA*. The Respondent acknowledged the injury but denied legal responsibility.

This case was brought pursuant to the *Civil Resolution Tribunal Act*.

Decision

After establishing that the matter did not fall under the *Montreal Convention*, the Tribunal moved on to assess occupier's liability.

The Tribunal first confirmed that the Respondent, as lessee and operator of the lounge, was an "occupier" under the *OLA* and therefore owed the Applicant a duty to take reasonable care to ensure he was reasonably safe while on the premises. The applicable standard was "reasonableness, not perfection".

The Tribunal found that the self-serve heated container did not constitute an unreasonable hazard. Although the oatmeal was hot enough to cause burns, this was a foreseeable and ordinary risk inherent in serving hot food. The evidence showed clear indicators that the container produced heat, including visible warning symbols. The Tribunal emphasized that an occupier is not required to warn competent adults about common, everyday risks. The fact that the Applicant was injured, by itself, was insufficient to establish a breach of the *OLA*.

Conclusion

The Tribunal concluded that the Applicant failed to prove that the Respondent breached its duty under the *OLA*. While the Applicant suffered painful injuries, the Respondent did not create or permit an objectively unreasonable risk of harm in allowing self-service of hot oatmeal in the lounge. Accordingly, the claim was dismissed in its entirety.

5. *James v. Stankovic*, 2026 BCCRT 442

Background

The Applicant rented a residential unit owned by the Respondents and alleged that prolonged exposure to mold in the unit caused a serious and lasting skin condition. The Applicant claimed the Respondents failed to address water leaks and mold during the tenancy and sought damages for health impacts and related costs. The Respondents denied the presence of mold and denied any responsibility for the Applicant's condition.

This case was brought pursuant to the *Civil Resolution Tribunal Act*.

Decision

The Tribunal analyzed the claim primarily under the *OLA*. It confirmed that the Respondent, as the Applicant's landlord, qualified as an "occupier" and owed a statutory duty of care under the *OLA*.

Applying the *OLA*, the Tribunal held that a landlord must take reasonable care to protect tenants from objectively unreasonable risks of harm, but the landlord is not held to a standard of perfection. Based on text messages and photographs, the Tribunal found that water leaks and mold were present during the tenancy and that the landlord failed to take reasonable steps to investigate or repair the problem. This failure constituted a breach of the standard of care.

However, the Tribunal found that the Applicant failed to establish causation. Although the Applicant suffered a significant skin condition and provided general medical literature linking mold to health effects, the medical evidence did not support a finding that the mold in the unit caused the Applicant's condition based on a balance of probabilities. Treating physicians could not confirm causation, allergy testing for mold was negative, and the Tribunal cautioned against relying solely on a temporal correlation. As a result, the statutory breach did not translate to a finding of liability.

Conclusion

The Tribunal concluded that while the landlord Respondent owed a duty under the *OLA*, and breached the applicable standard of care by failing to address mold, the Applicant did not prove that this breach caused his medical condition. Therefore, the claim was dismissed.

SHARE THIS NEWSLETTER:



ABOUT THE AUTHORS



PATRICK BRUCE

PARTNER

EMAIL pbruce@ahbl.ca

TEL 604 484 1779

Vancouver

[V-Card](#)

Patrick Bruce is a Partner in the firm's Insurance group. He has been recognized as *Best Lawyers in Canada: Insurance Law* for 2025–2026. His practice is primarily litigation-based with an emphasis on insurance defence, insurance coverage and alternative dispute resolution. Patrick has experience with technically complex, multi-party personal injury, casualty, and liability claims. He has acted for large global insurers and their insureds across a wide range of industries, including complex personal injury claims, subrogated matters, property damage, construction claims, and other matters. In every matter he handles, Patrick focuses on delivering efficient and effective results for his clients.



JASON LATTANZIO

PARTNER

EMAIL jlattanzio@ahbl.ca

TEL 604 484 1747

Vancouver

[V-Card](#)

Jason Lattanzio is a Partner in the firm's Insurance group. His practice is primarily litigation-based with an emphasis on insurance defence, general liability, insurance coverage, and dispute resolution. Jason has experience with technically complex, multi-party personal injury, casualty, and liability claims. He has acted for insurers, transportation and maritime clients, and corporate entities across a wide range of industries, including complex personal injury matters, cargo and property damage claims, construction disputes, fraud claims, and environmental matters. Jason also provides coverage opinions, handles coverage disputes, and advises on policy wording. In his capacity as counsel, Jason's approach is to focus on first understanding his client's unique objectives before recommending a course of action to resolve claims efficiently and

effectively. He works closely with his clients throughout the process and is committed to providing a high level of service on all matters.

ABOUT ALEXANDER HOLBURN BEAUDIN + LANG LLP

Alexander Holburn is a leading full-service, Canadian law firm with offices in Vancouver, British Columbia and Toronto, Ontario. We have operated in British Columbia for 50 years and opened our Ontario office in 2019. With over 100 lawyers, we provide a full spectrum of litigation, insurance, business, and personal law services for clients based in Canada, the United States, and Europe.

At Alexander Holburn, high-quality work is our baseline. We are dedicated to providing pre-eminent legal services to clients by forming strategic, service-oriented business partnerships. We are also equally committed to delivering exceptional customer service to our clients, which begins with taking the time to get to know our clients' needs, and the environments they work and operate in. We not only want to be your advocate, but we also want to be your trusted advisor.

Alexander Holburn lawyers are repeatedly recognized in *Best Lawyers in Canada*, the *Canadian Legal Expert Directory*, *Benchmark Litigation*, and *Who's Who Legal*. In addition to providing outstanding legal services, we aim to be thought leaders who can add insight beyond the individual mandates we receive.