

CAPTION SHEET

**Ministry of Business,
Innovation & Employment**

.v. Tree Adventures Limited

Address

Registered Office
Giligan Sheppard Limited
Level 4
253 Queen Street
Auckland 1010

TOC

Summons

CHARGE

- (1) Sections 16(2)(b)(i) and 50(1)(a), Health and Safety in Employment Act 1992

On or about 3 March 2013 at Woodhill Forest, Auckland, being a person who controls a place of work, it failed to take all practicable steps to ensure that a hazard that arose in the place, namely the hazard of a fall from height, did not harm Clifford Brabet who was in the place with its consent and had paid to undertake an activity there.

Penalty: A fine not exceeding \$250,000

Summary of Facts

Tree Adventures Limited

1. The Defendant is a duly incorporated company who operates a number of high ropes activity courses in Woodhill Forest, Auckland.
2. On 3 March 2013 Mr Clifford Brabet was completing one of the courses when he fell from a height of approximately 13.5 metres. Mr Brabet received fatal injuries as a result of the fall.

Background

3. The Defendant holds a license to operate an acrobatic adventure park from Hancock Forest Management (NZ) Limited in a designated area of Woodhill Forest, Auckland ("Premises"). It has 10 high ropes courses and three low rope safety briefing courses at the Premises.
4. Participants must complete a safety briefing course before beginning any high ropes course. The 10 high ropes courses involve different recreational activities and are at a range of heights. Participants complete a set number of the courses as a "section". The courses are divided into five sections with each section ranked from beginner through to advanced.
5. Upon arrival at the Premises the participants choose a section, pay for the section and are allocated their equipment. Participants are issued with equipment including a helmet, safety harness, carabiners and a pulley. The participants are then asked to read the rules and guidelines for the park which are set out on a large sign. Once this is complete they take part in the safety briefing.
6. The safety briefing is carried out by a staff member who explains and demonstrates the correct use of their equipment as well as explaining the requirements of the course.
7. Two carabiners are attached to the safety harness by lanyards. The participants use these carabiners to clip on and off safety wires around the course.
8. The pulley has a carabiner and lanyard which attach to the participant's safety harness. The pulley is used at certain points of the course to slide between platforms or to the ground. To use the pulley

participants attach it to a wire then unclip both of their carabiners from a safety wire and attach them to the carabiner below the pulley.

9. Colour coding is used on the course to ensure that the correct connections are made by participants. The staff member explains that red wires are safety wires for the carabiners to attach to. Blue wires indicate where a pulley is to be attached by the participant.
10. Participants move around a safety briefing course and are observed by the staff member. Once the staff member is satisfied that the participants understand how to use the equipment properly they are then taken to the section they have chosen.
11. There is signage on the course to remind participants about the correct use of the equipment. These are both written and pictorial. Staff members are positioned around the course to monitor participants' progress and ensure that people are using the equipment correctly. They are able to assist if a participant requires help or needs to be rescued.
12. At the end of the day staff and management had an informal debriefing session to review incidents that occurred during the day. Issues raised could include where people needed to be rescued from, how effective safety pads were or where participants "double unclipped" or became detached from all the safety lines.

Accident

13. On Sunday, 3 March 2013, Mr Brabet arrived at the Premises shortly after 10am with a group of work colleagues and family. The group, including Mr Brabet, signed in and paid. Mr Brabet and three others from his group chose to do the High Flyer section which is intermediate/advanced.
14. The group attended a safety briefing and were instructed how to use the equipment. The process took about half an hour. They completed a safety briefing course and were taken out to the beginning of their section.
15. Mr Brabet and the others doing the High Flyer section began at course number five. Together they completed two of the four courses in the High Flyer section, before beginning course number eight.

16. Part of course eight requires the participant to climb to a platform approximately 13.5 metres above the ground. Once there the participant clips both carabiners onto a red safety wire. The next activity is the "surfboard".
17. To complete the "surfboard" the participant attaches their pulley to a blue wire. Next they detach their carabiners from the red safety wire and clip them to the carabiner below their pulley. The participant then pulls a wooden platform or "surfboard" to them with a bungy cord. The participant puts one foot on the "surfboard" then steps onto the "surfboard" and they slide across to the next platform.
18. Dylan Grace was an employee of the Defendant working at the Premises on 3 March 2013. At approximately 12:45pm he was stationed on the ground around 15 to 20 metres from course number eight. He had monitored and directed the participant immediately before Mr Brabet as they completed the "surfboard" activity.
19. When Mr Brabet attempted the "surfboard" activity he put the pulley on the blue wire and then detached his carabiners from the red safety wire. Mr Brabet clipped the carabiners to the carabiner below the pulley and then pulled the "surfboard" to him.
20. Mr Brabet's pulley had not been positioned on the blue wire correctly. Mr Grace began to warn Mr Brabet. Before he did, Mr Brabet stepped onto the "surfboard". As the "surfboard" moved forward the pulley pulled Mr Brabet back then detached from the blue wire. Mr Brabet fell back off the moving platform to the ground.
21. Mr Grace immediately radioed for help and attended Mr Brabet. Staff contacted emergency services and performed CPR. When the paramedics arrived they were unable to revive Mr Brabet and he died at the site as a result of the injuries sustained in the fall.

Industry standards and hazards

22. NZAPE is a New Zealand based industry group which was established around August 2012. It meets and discusses industry issues including staff training and health and safety practices.
23. Two members of NZAPE who operate similar high rope courses in New Zealand, Adrenalin Forest and Adventure Forest, required participants

to clip carabiners on to the wire behind the pulley as secondary points of attachment.

24. The manufacturer of the pulley system, Petzl, provides guidance material which shows the pulley being used with secondary attachment points in the form of carabiners with lanyards to a person's safety harness behind the pulley.
25. The Defendant was aware of this practice. The Defendant was about to implement a new process for attaching the pulley at the Premises which involved a secondary point of attachment in the form of a carabiner clipped to the wire behind the pulley.

Breaches

26. The Informant's investigation into the accident revealed the following breach of section 16(2)(b)(i) of the Health and Safety in Employment Act 1992:

As a person who controls a place of work the Defendant was obliged to take all practicable steps to ensure that no hazard that arose in the place of work harmed any person who was in the place with its consent and had paid to undertake an activity there.

The Defendant should have taken the following practicable step:

- a. Provided a secondary independent point of attachment such as requiring participants to use a carabiner and lanyard to attach their safety harness to the wire behind the pulley.

Penalty

27. Upon conviction the Defendant is liable to a fine not exceeding \$250,000.
28. The Defendant has not previously appeared.

