

### **Heaves v Westmeath County Council [2001]**

The plaintiff had visited the grounds of Belvedere House in summer of 1998 and had paid an admission fee. When descending a set of rustic steps, the plaintiff slipped and fell, injuring his right elbow. The steps in question were somewhat uneven in nature. The right hand side had an uneven border of rocks and bushes, and the steps were partly covered with lichen and moss. The plaintiff's engineer suggested that the steps might have been cordoned off or a warning notice might have been placed at the head of the steps to alert visitors. He further suggested that the steps could have been made less hazardous had a handrail been placed on that side of the stairs where the wall bordered the steps.

The defendant claimed that there was a robust system of inspection and maintenance in place. In addition, the premises in question were listed premises and it was not permitted to make structural alterations without permission, due to the historical importance of the buildings. This was deemed to be of significance. The Judge concluded that the precautions the defendant had taken in all the circumstances were reasonable. Furthermore, he found the absence of a warning sign was not fatal to the defendant's case.

He found that the plaintiff was in full possession of all the requisite knowledge that a warning notice, had there been one there, would have given him. In the circumstances, he did not conclude that the absence of such a notice in anyway contributed to the plaintiff's injury. In summing up he said there was no failure on the part of the defendant to discharge its statutory duty to take reasonable care in respect of dangers existing on the premises. The action was dismissed.

**Heaves v Westmeath County Council, (20 ILT (ns) 236 (Circuit Ct, Mullingar, 17 October 2001) Judge McMahon**

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