

OCCUPIERS' LIABILITY

SLIPS, TRIPS + FALLS



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SLIPS, TRIPS + FALLS

result in some of the most common and costly liability claims against business owners.

*As an occupier of business premises, you are required to keep areas such as aisles, stairs, ramps, walkways, driveways and parking lots reasonably safe for persons who are using them. If a reasonable standard of care in keeping the premises free from hazards is not provided, then you, as an occupier, may be held liable for slips, trips or falls that occur on your premises. **Given the devastating losses that can result from such incidents, following a few simple loss-prevention tips could significantly reduce your chances of suffering a loss.***

Keeping your business premises safe and free from hazards by carefully inspecting and maintaining them is one of the best ways to prevent losses.

HERE IS A LIST OF SOME COMMON HAZARDOUS CONDITIONS:

- ice or snow that has not been cleared
- unexpected elevation changes
- uneven surfaces (e.g., cracks, gaps, potholes)
- slippery surfaces (e.g., wet or tiled floors)
- missing or loose handrails on stairs
- debris or obstructions on walking paths (e.g., boxes in aisles)
- inadequate lighting

HERE IS A LIST OF SOME OF THE CRITERIA USED TO DETERMINE IF AN APPROPRIATE STANDARD OF CARE HAS BEEN PROVIDED:

- Was the danger foreseeable?
- Was the occupier's conduct in accordance with acceptable standards of practice?
- Was there an adequate system of inspection (considering the risks involved) in place and carried out?
- Was the hazard allowed to exist for an unreasonable amount of time?
- How easy would it have been to prevent the hazard?

As you can see, the best way to avoid being held liable, and prevent losses, is by diligently keeping your premises free from hazards. This diligence, in combination with thorough and consistent documentation, is one of the most effective ways to defend your organization against a claim or lawsuit, should one arise.

TIPS to Help You Manage Your Risk

- ✓ Develop and implement an inspection and maintenance policy that is written, consistently used, documented and strictly enforced. Your policy should include a clear purpose, as well as the effective date and any revision dates. The policy should specify how often inspections are to be carried out, how observations/actions will be documented and by whom.
- ✓ Develop an inspection and maintenance form to be used for inspections.
- ✓ Perform both indoor and outdoor inspections frequently for hazards or maintenance deficiencies. For example, spills and water at entryways are common causes of slips, so inspect regularly for wet floors in high-risk areas such as entrances, washrooms and beverage-service areas.
- ✓ Implement a regular and reasonable cleaning and maintenance program.
- ✓ Train employees and/or volunteers to identify and remove hazards.
- ✓ When hazards are identified, address them by using methods such as:
 - repairing or removing the hazards as soon as possible
 - posting signs or notices in highly visible locations to warn patrons of potential danger until the hazard is repaired or removed
 - erecting barriers to prevent access to hazardous areas
- ✓ Ensure all areas are adequately lit.
- ✓ Use a non-slip floor treatment, especially in areas where floors inevitably get wet or greasy.
- ✓ Maintain a fully stocked first-aid kit.
- ✓ Develop emergency procedures and duties, and ensure that your staff and/or volunteers know their duties and are properly trained on the procedures.
- ✓ Maintain and regularly service an adequate number of fire extinguishers, and ensure that your staff and/or volunteers are properly trained to use them.

✓ Ensure that emergency exits are properly marked, well lit and kept free of obstructions.

✓ Document carefully: Keep records of inspections, repairs and the state of your premises.

INDOORS

Always remember to:

- Keep floors free of hazards and debris.
- Keep entrances as clean as possible.
- Place mats over wet areas, especially during wet weather.

OUTDOORS

Always remember to:

- Shovel and salt or sand icy or snowy areas.
- Follow by-laws and/or best practices that dictate when snow should be cleared.

TIPS on How to Handle Claims Against Your Business

How you handle incidents and accidents can have a significant impact on the ultimate cost of claims. When an incident or accident occurs:

- ✓ Assist the injured person in obtaining medical treatment. For example, call an ambulance if necessary.
- ✓ Record the names and contact information of any witnesses. Obtain and record detailed descriptions of the incident from the victim and from witnesses.
- ✓ Refer the claimant to your insurer for any discussions of the incident. It is wise to instruct your staff and/or volunteers not to discuss liability with potential claimants.
- ✓ Instruct your staff and/or volunteers not to admit fault on behalf of the organization.
- ✓ Take pictures of the area where the incident occurred. If possible, photograph the footwear that the claimant was wearing at the time of the incident.
- ✓ Complete an incident report. Documenting the incident may help to establish a defence for a claim presented at a later date. It may also be helpful in analyzing the cause of the incident and recommending risk-management improvements to prevent similar incidents in the future.
- ✓ Report the incident to your insurer. Provide details of the incident and information about steps that you had taken to prevent the incident.
- ✓ Investigate potential causes and take steps to prevent and/or respond better to similar incidents in the future.

Additional Resources

The provinces listed below have legislation regarding occupiers' liability. Visit the websites provided to view each province's legislation. The other common-law provinces interpret the law on occupiers' liability based on legal precedent and the laws of negligence. In Quebec, occupiers' liability is codified in the Civil Code.

ALBERTA

www.qp.alberta.ca/documents/Acts/O04.pdf

BRITISH COLUMBIA

www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/00_96337_01

MANITOBA

web2.gov.mb.ca/laws/statutes/ccsm/o008e.php

NOVA SCOTIA

canlii.org/ns/laws/sta/1996c.27/20050511/whole.html

ONTARIO

www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_90o02_e.htm

QUEBEC

www.ulcc.ca/en/poam2/ULCC_Acts_Quebec_Civil_Code_En.pdf

PRINCE EDWARD ISLAND

www.gov.pe.ca/law/statutes/pdf/o-02.pdf

Questions about insurance?

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British Columbia, Saskatchewan and Manitoba

Toll-free: 1-877-772-3777 ext. 222

Hours: M-F 9:00 a.m. – 4:00 p.m.

Alberta

Toll-free: 1-800-377-6378

Hours: M-F 8:00 a.m. – 4:00 p.m.

Ontario

Toll-free: 1-800-387-2880

Hours: M-F 8:00 a.m. – 5:00 p.m.

Quebec

Toll-free: 1-877-288-4321

Hours: M-F 8:30 a.m. – 4:30 p.m.

Atlantic

Toll-free: 1-800-565-7189 ext. 227

Hours: M-F 8:30 a.m. – 4:30 p.m.

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