

Ontario's top court finds school board not liable in bullying claim

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In *Rizzuto v. Hamilton Wentworth Catholic District School Board, 2025 ONCA 773* (*Rizzuto*), the Court of Appeal for Ontario affirmed the dismissal of a negligence claim arising from a schoolyard bullying incident (the Incident). Although the trial judge found several shortcomings in how earlier bullying was addressed, the court was “unable to conclude more supervision or disciplinary measures would have deterred or prevented the incident.” Without a causal link between those shortcomings and the Incident, the claim could not succeed.

Background

The plaintiffs brought a negligence action against the Hamilton Wentworth Catholic District School Board (the School Board) and two school administrators, alleging they failed to protect a 10-year-old student from bullying in the schoolyard. The two student perpetrators were originally defendants but settled before trial.

The plaintiffs' central submission was that the School Board and administrators should have investigated earlier bullying occurrences, and that earlier intervention would have prevented the Incident at issue.

At trial, the plaintiffs were required to prove: (1) that the defendants fell below the standard of care for failure to investigate the prior bullying; and (2) that “but for” those breaches, the Incident would not have occurred.

The trial judge found the School Board breached the standard of care in several respects, including by failing to adequately investigate earlier bullying concerns, losing the student's accident report pertaining to prior incidents, and permitting logbooks to be destroyed. However, the claim failed on causation. The trial judge found that none of those breaches were the cause of the Incident, which was “sudden, unexpected, and impulsive.” He was not persuaded that different supervision or disciplinary action would have prevented the Incident. The trial judge also noted that schools are not required to ensure that “all students are constantly deterred from bad behavior by the immediate presence of a supervisor at all times.”

The Court of Appeal's decision

The Court of Appeal upheld the trial decision, finding no reversible error in the causation analysis. In particular, the Court affirmed that the evidence did not show that earlier intervention would have prevented the Incident.

The Court emphasized that causation is a “pre-condition to recovery” and that it is the plaintiff’s burden to prove that, but for the defendant’s negligence, the injury would not have occurred.

Key takeaways

Rizzuto illustrates that while imperfect supervision, investigation or intervention may create litigation risk, those shortcomings do not automatically establish liability. The plaintiff still must prove that appropriate action would likely have prevented the injury-causing event. This decision further underscores that the standard of care for the supervision of minors is reasonableness, not perfection.

Contact us

If you have questions about this decision, are defending a similar claim, or have insurance-related issues, reach out to any of the authors or contacts below, or any lawyer from [BLG's Insurance Claim Defence Group](#).

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