



The Supreme Court rules that the City of Nelson can be held responsible for injuries caused by its snow clearing decisions.

After a heavy snowfall in January 2015, snow clearing crews for the City of Nelson in British Columbia started plowing the streets. Not long after, Ms. Taryn Joy Marchi parked her car on Baker Street in the downtown area. City crews had already plowed the street, but they had created a snowbank along the curb of the sidewalk. Ms. Marchi decided to walk over the snowbank to get from her car to the sidewalk and seriously injured her leg. She sued the city for negligence.

The City of Nelson argued that it should not have to pay any damages to Ms. Marchi, because snow clearing decisions are “core policy decisions” that are immune from negligence claims. Core policy decisions are based on public policy considerations, such as economic, social and political factors. They must be rational and not taken in bad faith.

At trial, the judge agreed with the city that its snow clearing decision was a core policy decision and the city did not have to pay any damages to Ms. Marchi. She appealed to the province’s Court of Appeal, which disagreed with the trial judge and ordered a new trial. The City of Nelson appealed that decision to the Supreme Court of Canada.

The Supreme Court has agreed with the Court of Appeal. The city can be held responsible for injuries caused by its snow clearing decisions.

Operational decisions are not policy decisions.

Writing for a unanimous Court, Justices Karakatsanis and Martin agreed that core policy decisions are immune from negligence claims. However, they pointed out that operational decisions to carry out a policy are not policy decisions. They said, “the fact that the word ‘policy’ is found in a written document” does not settle the question.

In analyzing the city’s snow clearing decision in this case, the Court concluded that the decision was not a core policy decision. Rather, the decision was operational and not immune from a negligence claim. The judges said the city owed Ms. Marchi a “duty of care” and that a new trial is required. The new trial would assess if the city breached that duty of care and, as a result, whether it should pay damages to Ms. Marchi.

What is a “duty of care”?

A person making a negligence claim must prove four things in court: a duty of care, a breach of that duty, the cause and any damages. A duty of care means the other person or organization was required to do, or avoid doing, something that could likely cause harm.

Breakdown of the decision: *Unanimous:* Justices [Karakatsanis](#) and [Martin](#) dismissed the appeal (Chief Justice [Wagner](#) and Justices [Moldaver](#), [Côté](#), [Rowe](#) and [Kasirer](#) agreed)

More information (case # 39108): [Decision](#) | [Case information](#) | [Webcast of hearing](#)

Lower court rulings: [judgment](#) (Supreme Court of British Columbia) | [appeal](#) (Court of Appeal for British Columbia)
