

Can OHS Inspectors Use Physical Force to Do Their Job?



Where courts draw the line between OHS enforcement powers and physical assault

Like other government enforcement officials, OHS and environmental inspectors may use a limited degree of force to perform their essential duties. But if inspectors go too far in exerting force, they lose their legal protections and can be charged with assault like anybody else. A fascinating case from Ontario illustrates where courts draw the line on the use of force by inspectors.

The Situation

There was bad blood between an environmental inspector and the owner of a winery in the Niagara Falls wine growing region of Ontario. The MOL inspector had personally inspected the winery 3 times and twice issued citations. So, when he visited the winery to serve a summons on the owner, his dander was up. After a loud and heated exchange, the inspector shoved the summons in the owner's face. The owner's head snapped back causing whiplash and cuts to the mouth. The inspector was arrested and charged with assault. The inspector pleaded not guilty, claiming that he was using force to carry out his duties.

You Make the Call

How would you rule if you were the judge in this case'

The Ruling

The Ontario Court of Justice ruled that the inspector went too far and convicted him of assault.

Explanation

An environmental official can use limited force to prevent a person from evading summons. But that is not what this inspector had done, according to the court. Although the winery owner started the argument, the inspector 'lost his composure' and 'allowed himself to be goaded into an inappropriate response.' The inspector had acted more like a participant in a violent barroom brawl than a government official carrying out his official duties, the court concluded.

Read more about how to deal with OHS Inspectors [here](#)

1. [v. Jenkins](#), [2007] O.J. No. 3124, Aug. 17, 2007