

Subcontractor Didn't Exercise Due Diligence as to Drill Rig Platform's Stability



A worker died when a drill rig owned and operated by a subcontractor fell over and crushed his backhoe as well as an excavator operated by another worker, who was so badly injured that he couldn't work for almost three years. The MOL charged the general contractor and the subcontractor with OHS violations. The contractor pleaded guilty; the subcontractor went to trial on charges that it failed to provide a proper platform for the drill rig. The subcontractor argued that it was reasonable for it to provide specifications to another company to identify the soil's bearing capacity as required by the manufacturer. But the subcontractor had to follow up and ask if that company had identified the soil's bearing capacity as adequate for the drill rig, which it didn't do. The court noted that the subcontractor did have a good safety record, a thorough written safety policy and documented daily safety meetings. However, proof of its safety policy and methods doesn't establish that it exercised due diligence as to the design of the drill rig platform and the soil's bearing capacity. And there was no evidence that it took any steps to confirm that the platform could support the drill rig. So the court convicted the subcontractor [*Ontario (Ministry of Labour) v. Advanced Construction Techniques Ltd.*, [2016] ONCJ 482 (CanLII), Aug. 3, 2016].