

Case Name:

Browne v. Richmond Hill (Town)

Between

**Sean Browne, Plaintiff (Appellant), and
The Corporation of the Town of Richmond Hill and
Dufferin Construction Company, Defendants (Respondent)**

[2007] O.J. No. 3233

2007 ONCA 584

Docket: C46531

Ontario Court of Appeal
Toronto, Ontario

R.J. Sharpe, E.A. Cronk and S.E. Lang JJ.A.

Heard: August 27, 2007.

Oral judgment: August 27, 2007.

(2 paras.)

Appeal From:

On appeal from the judgment of Justice John S. Poupore of the Superior Court of Justice dated September 5, 2006.

Counsel:

Mark A. Klaiman for the appellant.

Martin P. Forget for the respondent.

APPEAL BOOK ENDORSEMENT

The following judgment was delivered by

1 THE COURT (orally):-- We see no error on the part of the motion judge. The evidence supports his findings that the appellant willingly assumed the risk of driving on a closed road thereby

triggering s. 4(1) of the Occupier's Liability Act. There was no evidence of fault on the part of the occupier to trigger the exception.

2 Accordingly, the appeal is dismissed. In accordance with the agreement of counsel, costs fixed at \$10,000, inclusive of G.S.T. and disbursements.

cp/e/qlbxr/qlmxt