

SHERIFFDOM OF TAYSIDE, CENTRAL AND FIFE AT DUNFERMLINE

DETERMINATION

of Sheriff John Craig Cunningham
McSherry in Fatal Accident Inquiry
concerning the death of James
Kilpatrick Robertson Ferrier under
the Fatal Accidents and Sudden
Deaths Inquiry (Scotland) Act
1976

29th October 2009

The Sheriff, having resumed consideration of the cause, Determines:-

1. In terms of section 6(1) (a) of the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976 (the Act), that James Kilpatrick Robertson Ferrier, (Mr Ferrier) whose date of birth was 5th May 1956, latterly residing at 32, Wilson Street, Townhill, Dunfermline, died in the Accident and Emergency Department of Queen Margaret Hospital, Dunfermline at 11.55 hours on 4th May 2009.

2. In terms of section 6(1) (b) of the Act, that the cause of death Multiple Injuries due to blunt force trauma as a result of a fall from a ladder while at work.
3. In terms of section 6(1)(c) of the Act, that the reasonable precautions whereby the death might have been avoided are that the ladder might have been secured by rope at its top and/or had outriders or other such stabilisers at its bottom to prevent the ladder from moving sideways.

NOTE

Evidence was led from Mr Ronald Ferrier and Mr Robert Thomson that Mr Ferrier, a self employed licensed window cleaner, had been cleaning windows at the rear of the top flat occupied by Mr Thomson at 252, Townhill Road, Dunfermline. Mr Thomson had seen Mr Ferrier's arm at the bathroom window and had heard the noise of a ladder slipping across the rear wall of the property. He heard a noise and believed Mr Ferrier to have fallen. When he went downstairs to the rear of the property Mr Ferrier was found lying on his back on a slab. Mr Thomson called for an ambulance and two arrived around ten minutes later. Mr Ferrier had fallen a distance of 6.4 metres or 20 feet. He was attended to by paramedics at the locus and taken to Queen Margaret Hospital, where he died in the Accident and Emergency Unit at 1155 hours. According to the Post Mortem Report, the cause of death was multiple injuries as a result of blunt force trauma due to a fall from a ladder.

Mr Thomson said that when he went to attend to Mr Ferrier the ladder was lying against the rear wall at an angle and against a small vertical pipe to the right of the kitchen window. It was resting on one foot.

Miss Cringan, an inspector employed by the Health and Safety Executive, said that Mr Ferrier's ladder and shoes were in order. There was evidence that Mr Ferrier had tried out alternative methods of window cleaning at the locus, such as using pole systems but the results were not satisfactory. He was aware of the risk due to the working height involved. She said that the circumstantial evidence was that the ladders had slipped sideways at their upper resting point; they had not been secured or fitted with an effective non-slip or other stability device or any other arrangement of equal effectiveness, which was a legal requirement. She was also of the view that window cleaning was not simply a matter of common sense as experience may lead to complacency. It was useful to have reminders of safety precautions, which were recommended to be taken. Mr Ferrier had been a window cleaner for around 20 years and had held a licence from Fife Council since 2002. Fife Council applies a condition to its window cleaning licences from July 2009 that the provisions of Health and Safety legislation should be complied with. This was thought to be rather unnecessary as every window cleaner, licensed or not, is subject to such statutory legislation.

It is matter of great regret to all that this accident occurred.

John Craig Cunningham McSherry

29 October, 2009