

SHERIFFDOM OF TAYSIDE, CENTRAL AND FIFE AT FORFAR

DETERMINATION

**UNDER THE FATAL ACCIDENTS
AND SUDDEN DEATHS INQUIRY
(SCOTLAND) ACT 1976**

by

Sheriff K A Veal

Sheriff of Tayside Central and Fife
at Forfar

In

FATAL ACCIDENT INQUIRY

Into the death of

RAYMOND JAMES BIRSE

The formal determination in this case will determine that Raymond James Birse, who was born on 19 February 1964, and who resided at Station House, Kingsmuir, by Forfar, died at about 11.45 a.m. on 10 May 2006, from craniocerebral injuries, as a result of blunt force trauma, caused by a fall through a roof, whilst he was working to remove a roof from a building at The Old Smithy, Kellas, Angus.

That determination of this Fatal Accident Enquiry formally sets out the cause of Mr Birse's death, and where and when it occurred. One cannot however leave this inquiry without expressing condolences to all of his family, his wife, his children, and his parents. To lose a husband, father and son at the early age of 42 years is a heavy

cross to bear, but that cross is even more weighty, when one considers the circumstances of his sudden unexpected and untimely death.

In this case, Mr Birse was for all purposes, working “for himself” and with a view to further progressing a building that he himself would use in the fullness of time.

This inquiry cannot however allocate responsibility for what happened on that day in May in 2006. That, if thought appropriate and necessary, would be for a separate forum on another occasion, when all the issues would be better and more clearly defined. Dr Clare Brough, the senior and experienced Inspector from the Health and Safety Executive, investigated this matter in some depths and her comprehensive report was spoken to by her and made available to the court for this inquiry. There is clearly a number of what might be properly described as “grey areas”, such as the question of access to the site before Guild Homes had paid a price to the vendors, the indemnity which Mr Birse signed before he went on to the site to remove the roof, whether Mr Birse had properly considered the risks associated with the work that he was to carry out, whether adequate preparations had been made prior to the work commencing to see if a safer system of working could have been put in place, and also the nature of the work and access when Mr Birse and Mr Howcroft were both on the roof. Ultimately, I am supportive of, and would not fault her conclusion not to take action against any party.

There are high risks involved in dismantling buildings and structures, and in this instance, the structure was over 45 years of age. There is merit in the HSE inspector’s observation that such a potentially dangerous activity should only be undertaken by

contractors with expertise in this type of work. The system that was adopted by Mr Birse on the day in question fell altogether short of a safe and satisfactory system of working, particularly when there were fragile roofing materials being removed.

I do hope that the evidence led during the course of this inquiry will assist the family in their genuine quest to ascertain the circumstances surrounding Mr Birse's death and that what has been said will help them to at least partially draw a line under this difficult and tragic event.

FORFAR 18.9.07

Copied to PF, Forfar and Scottish Executive