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Restaurant Franchisor Succeeds in Removing Itself from Franchisee "Trip and Fall" Case

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Franchisors are often dragged into legal disputes between their franchisees and those franchisees' customers and employees. This can occur in matters such as personal injury claims or employment disputes where plaintiff-side lawyers either do not understand or are not concerned with the independence of franchisors from their contractual franchise partners. As such, franchisors may spend significant efforts attempting to remove themselves from such legal disputes by establishing that they are in fact not a proper party to disputes.

In *Hagley v. A & W Food Services of Canada Inc.*,[1] the British Columbia Civil Resolution Tribunal addressed a small claims case involving a personal injury claim from a trip and fall incident outside a franchised restaurant. Both the franchisee, Western Restaurant Franchises Inc., and the franchisor, A&W Food Services of Canada Inc. (A&W), were named as defendants in the proceeding.

A&W took the position that this matter was a dispute between the plaintiff and the franchisee and that A&W was not a proper party to the dispute. As noted in the decision:

"A&W says that it should not be a party to this CRT dispute. A&W provided evidence to show that it is a franchisor of A&W restaurants. It undisputedly does not own or control the restaurant where Mr. Hagley tripped and fell."

The Tribunal found in favour of A&W and held that "A&W was not responsible for operating the restaurant where Mr. Hagley fell and so it did not owe Mr. Hagley a duty of care to ensure this property was safe." The claim was dismissed as against A&W.

Although this is a minor case, it is helpful precedent that the straightforward distinction between franchisors and franchisees for the purpose of personal injury matters may be recognized and respected in British Columbia.

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[1] Hagley v. A & W Food Services of Canada Inc., 2023 BCCRT 899 (CanLII), <https://canlii.ca/t/k0pws>

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