

**IN THE SUPREME COURT OF GRENADA
AND THE WEST INDIES ASSOCIATED STATES
HIGH COURT OF JUSTICE
(CIVIL)**

GRENADA

CLAIM NO. GDAHCV2007/0130

BETWEEN:

**VONDELL OLIVER
(Mother and Administratrix of the Estate of
Shimia Olive, deceased a.k.a. Shimia Oliver
Shiriah Olive, deceased a.k.a. Shiriah Oliver
Akida Oliver, deceased a.k.a. Akida Oliver)**

Claimant

and

GRENADA ELECTRICITY SERVICES LIMITED

Defendant

Before:

The Hon. Mde. Justice Agnes Actie

High Court Judge

Appearances:

Mr. Anselm Clouden with him Ms. Sandina Date for the Claimant
Mr. Dickon Mitchell with him Ms. Skeeta Chitan and Mrs. Crystal Braveboy-
Chetram for the Defendant

2021: February 12;
July 23;
September 21.

JUDGMENT

[1] **ACTIE, J.:** This claim brought by Vondell Oliver (Ms. Oliver) as mother and Administratrix of Shimia Olive, age 2, Shiriah Olive, age 5 and Akida Olive, age 12, raises the issue as to whether the Grenada Electricity Services Limited (Grenlec)

was negligent and in breach of duty arising out of a fire on 16th June 2006 resulting in the death of her three minor children.

Ms. Oliver's Case

- [2] Ms. Oliver in a claim form filed on 21st March 2007 contends that on or about 16th June 2006, at approximately 10:45 pm, an electric fault occurred causing a fire which engulfed and burned her dwelling house situate in the Town of Sauteurs in the parish of Saint Patrick in the State of Grenada (the property) resulting in the death of her three minor children and the complete destruction of the property together with its contents.
- [3] An independent Electrical Engineer carried out an investigation and determined that an electric fault was most likely the cause of the fire. In his findings, he concluded that the bonding wire as required by the electrical code was never installed and the circuit breakers which are designed to isolate the ground could not do so without this missing bonding wire.
- [4] Ms. Oliver contends that the fire was caused by the negligence of Grenlec, its servants and/or agents by: (1) failing to ensure that there were or would be no risk of fire arising from the supply of electricity to the said building; and (2) failing to ensure that the bonding wire as required by the electrical code was installed. Ms. Oliver also relies on the doctrine of *res ipsa loquitur*.
- [5] Ms. Oliver claims special damages for funeral expenses, loss of dwelling house, loss of clothing, personal belonging, furniture and appliances and the costs of the engineer's report, among other reliefs.

Grenlec's case

- [6] Grenlec denies that an electrical fault caused the fire or if there was an electrical fault that caused the fire that it was caused by it or its negligence.

[7] Grenlec further states that:

- (1) On 16th June 2006 at about 11:04 pm its duty control operator, Kenny Pascal, received a report from one Yoland Jones regarding a fire on a building located in the town of Sauteurs, St. Patrick. Grenlec immediately dispatched a crew to the scene of the fire to disconnect the power lines providing electricity. On the crew's arrival at the scene of the said fire, the police and fire officers were present, and the fire was being put out.
- (2) Its service lead approximately 20 feet long, which supplied electricity to the building on fire, was still attached from its pole to the said building. The service lead was intact, not burnt and in good condition. The service line was also intact and attached to the meter. The meter was completely intact and was left on the said building by its crew.
- (3) With regard to the service lead, Grenlec, at the request of the police officers at the scene of the fire, disconnected the service lead from the said building and handed it over to them.
- (4) The allegation that the fire was caused by an electrical fault is without any factual basis and the report of George Radix dated 11th December 2006 does not give any factual basis for his assertions that the cause of the fire was most likely an electrical fault.
- (5) It is not responsible for installing the bonding wire referred to in the claim. Further, it is not responsible for the internal or external electrical wiring of buildings in Grenada. There is no requirement for the installation of bonding wire in the internal or external wiring of buildings in Grenada before it supplies electricity to it.
- (6) It is the Government through the Ministry of Works and the Electrical Inspectors who are responsible for the inspection and certification of

electrical wiring of buildings in Grenada before Grenlec is able to supply buildings with electricity. If the electrical wiring of a building does not meet the standards set by the Ministry of Works, the electrical inspection certificate would not be issued by the said Ministry. The building was certified as fit for the supply of electricity on 15th December 2005 and was duly signed and stamped by the Electrical Inspector and it was on that basis that Grenlec connected this building.

- (7) For the foregoing reasons, it denies the allegations of negligence in the claim and the reliance on the doctrine of *res ipsa loquitur*. Additionally, Grenlec denies the allegation that Ms. Oliver has suffered loss and damage as a result of its negligence and states that Ms. Oliver is not entitled to any relief claimed.

Claimant's Evidence

[8] In a witness statement filed on 11th October 2007, the claimant, Vondell Oliver, says that:

- (1) On 16th June 2006 at around 8:30 pm she was invited to an outing with a friend and arranged with her brother Rudell to look after the children. Ms. Oliver left the home at approximately 9:00pm. At 9:15 pm she called Rudell and he informed her that he went over to the house and the children were asleep, so he went back to his home with the intention of returning to her home later.
- (2) At about 10:45 pm, Ms. Oliver received a call on her way back to Sauteurs stating that her house was on fire. She states that she rushed home only to find her home destroyed by fire and her three children dead.

- (3) The building was connected with electricity in February 2006, just a few months prior to the fire.

Evidence of Sandra Jeremiah

- [9] Ms. Jeremiah states that she resides in Sauteurs in the parish of Saint Patrick. On 16th June 2006 at approximately 10:45 pm while she was in the town of Sauteurs on Cornwall Street with Mr. Cleggon Monroe, she noticed an electricity pole about 30 to 40 yards away sparking. A few seconds later she saw Ms Oliver's house catch fire. The fire started on the top of the house. Ms. Jeremiah avers that she started yelling "fire, fire", then she and Mr. Munroe ran towards the house.
- [10] A neighbour, Ms. Patrina, came out of the house and Ms. Jeremiah asked her whether anyone was in the house. Ms. Patrina informed her that the children were in the house. The Sauteurs police were alerted about the fire and they came immediately to assist. A few people tried to get into the house, but at the same time the police was trying to out the fire and nobody was able to get into the house.

Evidence of Delmar Oliver

- [11] Delmar Oliver in her witness statement states that she was informed by her son, Rudell that Ms. Oliver's house was on fire. On arrival at the house she observed the fire brigade trying to out the fire and she saw the house was burning from the top downwards. One of her son's Shondel, managed to break down the door but was unable to get inside because of the fire and the smoke. After the fire was extinguished, police officers and a doctor went inside the house and found the three deceased children lying on their beds.

Evidence of George Radix

- [12] The witness statements of Mr. George Radix filed on 11th October 2007 and 18th January 2012, respectively highlight the following salient points:
- (1) He is a consulting electrical engineer and the Managing Director of Plastix Engineering. His profession experience includes electrical

installation in Trinidad and Tobago and Texas and commercial electrical installations and utility transmissions and distribution in Grenada.

- (2) In his report, he relies on two documents to guide his findings namely Institution of Electrical Engineers (IEE) Wiring Regulations BS7671 and National Fire Prevention Association (NFPA) 921 Guide for Fire and Explosive Investigation.
- (3) He conducted a site inspection on 11th December 2011. He avers that it is evident from the burnt pattern that the fire started in the front left room as viewed from the road. The degree of combustion was observed to be more complete towards the roofline of the room and less so at lower elevations. He concludes that this is an indication that the source of the fire was close to the roofline as flames travel mostly upward.
- (4) He is of the view that arson and the kitchen being the source of the fire can be ruled out and the likely source is electrical. There was no evidence of short-circuit faults anywhere in the installation. Any internal short-circuit faults, however, would have been cleared by the internal protective circuit breakers. No such protection is provided by Grenlec for their serve line or meter. He states that he could not find definitive evidence of faults on the Grenlec system.
- (5) By process of elimination, a high resistance electrical ground fault is then the most likely source of this fire. The high resistance electrical ground fault elevated at or close to the roof in the left front room as viewed from the road.

- (6) These faults however seldom leave visual evidence and none were found. The TT system of grounding employed was not fully complied with, as the requisite loop impedance is invariably higher than that specified by the electrical code. This noncompliance essentially would defeat the sensitivity of the protective circuit breakers to such faults and in his view is the likely root cause of the fire. He states that both Grenlec and the Electrical Inspectorate are aware of this violation of the IEE code.

Defendant's Evidence

Evidence of Theophilus Francis

[13] Mr. Theophilus Francis in his witness statement filed on 12th January 2012, avers that his company was retained by Caribbean Alliance Insurance Company Limited to conduct an investigation into the fire. The company prepared a report on 15th May 2007 and a follow up report on 2nd December 2011. The salient points of the reports are:

- (1) On examination on the remains of the house, it was observed ***“that the fire was concentrated at the front left bedroom which is the north-western corner of the house and from there smoke and heat spread to other parts of the house”***¹.
- (2) When they visited the site of the fire on 23rd February 2007, they noted that the area which the ground wires from the building ran and saw a steel rod that had been driven into the ground. No other rod was driven into the ground in this area. Therefore, they are of the view that the steel rod was being used as an earth rod although it did not meet the statutory requirement of using copper and would not have been effective for its purpose.

¹ Para. 1, page 5 of the 15th May 2007 report.

- (3) Given the near total destruction at the left front bedroom, there is no doubt that the fire started there and earlier the flames or heat migrated to the other parts of the house.
- (4) With respect to the area of the electricity supply to the house, they noted that the meter that is affixed to the front external timber cladding of the room was absolutely intact and there was significant survival of the timber panels to which it was attached.
- (5) Ms. Oliver's feed line was attached directly to Grenlec's service lead and it is remarkable that her supply line showed fire impingement from the outside with little or no deterioration of the wires on the inside. When the line is properly laid out the section which has seen fire impingement is the section that would have been resting against the house. Therefore, the fire impingement was from the burning house and not that fire from this source burnt the house.
- (6) While there is destruction near the area of the roof skirting board at the left of the front porch, there is also significant survival from the outside making it appear that the fire attacked the roof skirting board from the inside of the house. This led them to conclude that the inside of the house was burning before any part of the outer roof.
- (7) **It can be concluded that the area of origin of the fire is the front bedroom and** the pattern of burning reveals more damage in the areas that are further from the meter and the supply line. In light of the above, they conclude that the fire had nothing to do with quality or manner of Grenlec's supply.
- (8) In relation to issue of the use of bonding wire in the electrical installation, Mr. Francis says he is not certain whether Mr. Radix's statement that bonding wire as required by the electrical code was never installed, is a comment advocating for the use of bonding wires

or an observation on the separation of the grounding wire from the ground rod. If it is the latter, Mr. Francis avers that this would be confirmation that the state they observed at their later visit, existed for some time before. However, if it is a comment regarding his preference for the TNCS system against the TT system used by Grenlec, Mr. Radix's comment would be misleading, since there was grounding by the TT system, which is a method recognised by the IEE. The efficacies of the two systems are debatable.

Evidence of James Nicholas

- [14] James Nicholas in his witness statement says that he is a linesman with Grenlec since 1987. The job entails the building, construction and maintenance of the lines and poles that supply electricity. Mr. Nicholas recalls receiving a report from Kenny Pascal on 16th June 2006 at approximately 11.07 pm informing of the fire in Sauteurs, St. Patrick. Mr. Nicholas together Shawn Manwarring who was with him at the time journeyed to the scene of the fire and arrived at around 11:30 pm to investigate the report.
- [15] Mr. Nicholas avers that he noticed that there were three service leads or electricity supply lines that were affected by the fire. One was to the house on fire and the others were to two houses. At that time all three of the supply lines connected to Grenlec's pole. The service lines were not burnt and were in good order. However, the service supply line that was connected to the burning house was burnt from the end that was connected to the house that was on fire but was still attached to the house.
- [16] The main panel in the house was also burnt as well as the insulation on the main cable of the house that was connected to the meter. Further, there were four other customers that were connected from the same pole as the house that was on fire. The service lines to these houses were not burnt from the pole and neither of these houses reported not having electricity during the fire.

Evidence of Don Forsyth

[17] Don Forsyth, the senior engineer at the Planning and Engineering Department with Grenlec, in his witness statement says that he together with Eric Williams, the acting distribution manager, carried out an investigation surrounding the fire which occurred at the home of Ms. Oliver. They visited the site on the morning of 19th June 2006 and observed:

- (1) That the site was not secure and observed two young males walking in and out of the house.
- (2) Burnt debris in the house.
- (3) The room to his front left had the most destruction and appeared to be a bedroom.
- (4) The meter of the house was intact and in good condition.
- (5) The panel was also burnt.
- (6) There is no evidence of a fire affecting the pole which supplied electricity to the houses in the area, including the burnt house.

[18] Mr. Forsyth avers that Grenlec did not receive reports of interruption of electricity or any fault report from that house on the night of the fire in question.

[19] Further, Mr. Forsyth avers that he saw a copy of a letter dated 11th December 2006 addressed to Mr. Anselm Clouden and signed by George Radix. In response to the letter Mr. Forsyth says:

- (1) The letter does not state when Mr. Radix conducted his investigation, and he notes that the date of the letter and the date when the fire occurred.

- (2) If the investigation was carried out on 11th December 2006, Mr. Forsyth says that would mean that Mr. Radix's investigation was carried out at the site some six months after the fire.
- (3) The letter does not state or even suggest a factual basis for Mr. Radix's contention that an electrical fault is the most likely cause of the fire.
- (4) The assertion that bonding wire was never installed has nothing to do with Grenlec.
- (5) Grenlec is not responsible for the internal nor external wiring of its customers building in Grenada. That responsibility in relation to electrical wiring lies with the customer.
- (6) Before a customer can contact Grenlec for the supply of electricity, the customer has to get approval from the Electricity Inspector's office in the Ministry of Works.
- (7) With respect to the issue of bonding wire, there is no requirement whether for internal or external wiring of buildings in Grenada or that bonding wire be installed before Grenlec can supply electricity to a building of house in Grenada. The issue of the use of bonding wire as a feature of electrical installation is a matter of system of installation being used.
- (8) The system that is used in Grenada is the TT system. The system does not require the use of bonding wire. Under this system, the customer is totally responsible for the adequate grounding of its electrical installation.

Issues

[20] In light of the above facts and evidence, the issues to be determined are:

- (1) What was the cause or source of the fire?
- (2) Whether the cause of the fire was due to Grenlec's negligence or breach of duty?

Discussion and Analysis

What was the cause or source of the fire?

[21] Mr. Clouden, counsel for Ms. Oliver, asserts that the expert, Mr. George Radix, in his evidence detailed that he found no evidence of accelerants and ruled out the kitchen as a source of the fire. By process of elimination, counsel notes that Mr. Radix suggested that if arson is ruled out as the possible cause of the fire then an electrical fault being the only possible source of fire at the elevation of the roof. Additionally, counsel notes that Mr. Radix found no evidence of short circuit faults in the installations and found no definitive evidence of faults from Grenlec's electricity supply.

[22] However, Mr. Radix's statements were qualified by detailing that loose electrical connections are also a source of fire, but more than often they burn themselves free and are self-extinguishing. Lastly, counsel notes that Mr. Radix stated that by **process of elimination a high resistance electrical ground faults is then the most likely cause of the fire** and these faults seldom leave evidence and none were found. Under cross-examination, counsel states that Mr. Radix found no evidence of fault on Grenlec's system on the visible evidence that was available to him.

[23] The court notes the report of Theophilus Francis of Pioneer Claims Services Co. Ltd. dated 15th May 2007 and his finding that the fire impingement was from the burning house. Further, in relation to the Ms. Oliver's assertions that the fire came from Grenlec's service lead, Mr. Francis found although there was damage to the

roof skirting board at the left of the front porch, there was “significant survival” which prompted his finding that inside the house was burning before any part of the outer roof. Additionally, Mr. Francis found that the pattern of burning is characterised by far more damage in the areas furthest from the meter and the supply line. Therefore, he says “***we can conclude that the fire had nothing to do with the quality or manner of the Grenlec supply***”.²

- [24] The court further notes the evidence and the consistent findings by both expert witnesses that no fault can be attributable to Grenlec’s supply to the house. Additionally, Mr. Francis in his report averred that he is unable to determine whether the cause or source of the fire was electrical. Mr. Radix on the other hand opines that by process of elimination the fire may have been due to an electrical fault. The court is of the view that the claimant has not provided any cogent evidence to satisfy on a balance of probabilities the source of the fire was as a result of Grenlec’s negligence. The evidence in support speaks to the lack of a wire bonding and not electrical faults in the electrical lines. The evidence is clear that the wires running to the house were intact, no one had reported any interruption in electricity on the night of the incident. Taking the above evidence in the round from the experts, the court is not satisfied that the claimant has proved her allegations or assertions that the cause or source of the fire was attributable to Grenlec’s electricity supply to the house.

Whether the cause of the fire was due to Grenlec’s negligence or breach of duty?

The Doctrine of Res Ipsa Loquitur

- [25] Counsel for the claimant relies on res ipsa loquitur. With respect to the maxim or doctrine of res ipsa loquitur, the learned authors of the **Halsbury’s Laws of England** stated:

“Under the doctrine res ipsa loquitur a claimant establishes a prima facie case of negligence where:

² Para. 10.0, page 10 of the report of Theophilus Francis dated 15th May 2007.

- (1) it is not possible for him to prove precisely what was the relevant act or omission which set in train the events leading to the accident; and
- (2) on the evidence as it stands at the relevant time it is more likely than not that the effective cause of the accident was some act or omission of the defendant or of someone for whom the defendant is responsible, which act, or omission constitutes a failure to take proper care for the claimant's safety.”³

[26] The learning from the Halsbury’s elucidates that a claimant can establish the doctrine of *res ipsa loquitur* where (1) he is unable to specifically prove the events that led to the cause of the accident and; (2) the evidence suggests that the accident was caused by the defendant’s negligent act or omission.

[27] In **Grenada Electricity Services Limited v Isaac Peters**⁴ Byron CJ, as he then was, cited **Trinidad and Tobago Electricity Commission v Bridgemohan Sookram and Another**⁵, where de la Bastide CJ at page 482 said:

“It is trite law that he who alleges must prove. The burden of proving an allegation of negligence is on the party who makes it. By their pleading the respondents relied in this case, in part, on the doctrine of ‘res ipsa loquitur’. This doctrine, as explained by Megaw LJ in *Lloyde v West Midlands Gas Board* (1971) 2 All E R 1240 at 1246 applies, where, although the precise cause of an accident cannot be established, it is proved to have happened in such a way that prima facie it could not have happened without failure on the part of the defendant to take due care for the plaintiff’s safety. Once this has been established, the evidential burden shifts to the defendant to show that the accident could have happened without his negligence; see *Bennett v Chemical Construction (GB) Ltd* (1971) 3 All ER 756”.

[28] Given the learnings on the doctrine and the experts’ findings that the precise cause of the fire cannot be established and the fire may have been an electrical fire then the burden shifts on Grenlec’s to show that the fire was not as a result of its negligence. The trusts of the claimant’s evidence suggests that the fire may have

³ Halsbury’s Laws of England > Negligence (Volume 78 (2018)) > 3. Proving Negligence > (2) Res Ipsa Loquitur > 64. Inference of defendant’s negligence.

⁴ Civil Appeal No.10 OF 2002.

⁵ (1999) 57 WIR at 473

been caused by poor electrical wiring and failure to install bonding wire which would have given some level of protection in case of an electrical fault.

Negligence and Breach of duty

- [29] Our Court of Appeal in the case of **Clement Lawrence & Cleopatra Ballantyne v First St. Vincent Bank Limited**⁶, restated the law on the test to determine whether there is negligence. Webster JA (Ag.) stated:

“The traditional starting point in determining whether a duty of care in negligence exists is the celebrated case of *Donoghue v Stevenson* where Lord Atkin answered the question of the persons to whom a defendant owes a duty of care by reference to the neighbour principle and the two-prong test of reasonable foreseeability and proximity. Following the decision in *Donoghue v Stevenson*, the test has evolved into a three-way test that is best summarised by Lord Bridge of Harwich in *Caparo Industries Plc v Dickman and Others* as: “What emerges is that, in addition to foreseeability of damage, necessary ingredients in any situation giving rise to a duty of care are that there should exist between the party owing the duty and the party to whom it is owed a relationship characterised by the law as one of “proximity” or “neighbourhood” and that the situation should be one in which the court considers it fair, just and reasonable that the law should impose a duty of a given scope upon the one party for the benefit of the other.” The three elements of the test are therefore: (1) reasonable foreseeability of damage; (2) a relationship characterised by proximity or neighbourhood between the wrongdoer and the person damaged; and (3) that the law would consider it fair, just and reasonable to impose a duty of care.”⁷ (Underlining supplied)

- [30] The court is not satisfied that Ms. Oliver has made out a prima facie case of negligence against Grenlec for any negligent act or omission. Ms. Oliver in her claim contends that Grenlec failed to take all reasonable and effective measures and to establish safe conditions, whether by inspection or otherwise to ensure that there were or would be no risk of fire arising from the supply of electricity. Further, the claimant contends that Grenlec failed to ensure that the bonding wire as required by the electrical code was installed.

⁶ SVGHCVAP2014/0016.

⁷ Ibid at para. 18.

- [31] There was much debate between the experts on the use of bonding wire in electrical installations. Mr. Radix asserted in his evidence that both Grenlec and the electrical inspectorate are aware of non-compliance with the TT system of grounding in violation of the IEE code. Contrastingly, Mr. Forsyth stated at the further hearing that ***“bonding wire is not required by the code”***. He further stated, ***“if you are using the TT system there are certain requirements of the TT system that the electrical inspectorate has to ensure that the efficacy is as it’s meant to work but the TT system does not require a bonding wire”***. Mr. Forsyth also stated that ***“close to 100% of the houses in Grenada are connected right now and do not have a bonding wire”***.
- [32] At the further hearing of the trial on 23rd July 2021, Mr. Radix stated that ***“the electrical code specifies you can eliminate the bonding, but you must ensure that the loop impedance is at a sufficiently low enough level so that the circuit breaker would operate”***.
- [33] Further, when asked by the court who would be responsible to ensure that there is compliance with the code, Mr. Radix stated that ***“the person who actually did the design...in most installations in Grenada wire men actually do the designs, they might not be qualified to do so, but it’s accepted practice. So to answer your question, ultimately in Grenada, it is either an electrical engineer if an engineer is employed to do that design or the electrician ...they essentially do the design in a form but they are not qualified to do the design so it falls on the electrical inspectorate, who is essentially charged to pick up these errors”***.
- [34] Additionally, when asked by this court if Grenlec was under a responsibility to inspect whether bonding wire was installed on premises he stated: ***‘No, I do not believe that is a responsibility of Grenlec, but as a responsible utility... most responsible utility would also do a peripheral inspection to make sure that everything is in order.’***

- [35] In summary, Mr. Radix conceded that there is no statutory duty on Grenlec to ensure that bonding wire is installed on premises or for Grenlec to inspect the premises to ensure that it is installed. However, Mr. Radix advocates for this to be done by Grenlec as most homes in Grenada do not have bonding wire installed. Further, Mr. Radix at the hearing stated the “**electrical inspectorate is the person charged to ensure that this happens**”. When asked by the court who is this person or body, that is, the “*electrical inspectorate*”, Mr. Radix stated that body falls under the Ministry of Works.
- [36] The court appreciates Mr. Radix’s candour on his preference and advocacy for the use of bonding wires. It is the evidence from Mr. Radix that bonding wire was not utilised in the electrical installation in Ms. Oliver’s home. Additionally, it is the evidence from Mr. Francis in his report that a steel rod was used instead of copper rod (earth rod) in the electrical installation.
- [37] The court accepts the submissions on behalf of Grenlec that the company is not in the business of electrical installations whether internally or externally and that all electrical installations are first to be certified by Electrical Inspectors in the Ministry of Works before electricity can be supplied to the premises. This court is of the view that those alleged issues in the electrical installation of Ms. Oliver’s home ought to have been discovered through a thorough inspection of the premises by the relevant body that is, the Ministry of Works and not Grenlec.
- [38] At the further hearing of this claim, Mr. Radix asserted that if the utility company is not happy with an installation the burden is on the utility company to refuse to connect that property. In essence, Mr. Radix asserts that Grenlec must go beyond their duty to connect electricity and further verify all electrical installations already certified by the electrical inspectors from the Ministry of Works and conduct their own private inspection of the property and its installation.

[39] The court accepts that this further requirement suggested by Mr Radix would place an onerous burden on Grenlec as it would require the company to inspect all connections for the supply of electricity as the company is the sole provider of electricity in Grenada⁸.

[40] With respect to Grenlec's discretion to refuse to supply electricity as charged by Mr. Radix above, **Section 6(8) of the Electricity Supply Act⁹ (ESA)** states that Grenlec:

“...may refuse to supply electricity to a consumer or discontinue the supply of electricity to a consumer unless the company is reasonably satisfied that any installation, apparatus or works in or serving the consumer's premises (other than those of the company) is in good working order and condition, is safe, complies with the applicable standards and otherwise will not interfere with efficient supply of electricity.”

[41] While Grenlec has a discretion to refuse to supply electricity to a consumer as provided in the above section, the court is of the view that such an imposition of duty on Grenlec as charged by Mr. Radix would be burdensome to Grenlec, especially on routine connections. Further, there is no evidence before this court that those issues in relation to the grounding system were patent or obvious to Grenlec on its routine connection of electricity supply to Ms. Oliver's home a few months after certification by the Ministry of Works.

[42] It Grenlec's responsibility to connect electricity to the home or building after certification from the said Electrical Inspectors pursuant to section 39 the ESA. **Section 39 (5) and (6) of the ESA** provides:

“(5) The duties of the Government electricity inspector shall be as follows—

- (a) to inspect and test, periodically and in special cases, electric lines and electrical plant belonging to persons authorised by a licence or exemption to generate, transmit and/or distribute electricity.

⁸ As admitted by the Defendant at paragraph 2 of its Defence.

⁹ Electricity Supply Act No. 18 of 1994.

- (b) to examine, periodically and in special cases, the generation, transmission and/or distribution of electricity by such persons.
 - (c) to inspect and test, if and when required by any consumer, electric line or plant located on such consumer's premises, for the purpose of determining whether any requirement imposed by this Act in respect of such lines or plant or the supply of electricity through or by them has been complied with; and
 - (d) such other duties as may be imposed by regulations or otherwise under this Act.
- (6) The Government electricity inspector shall have the right to direct the Company not to supply electricity to any installation, apparatus or works which he or she deems unsafe or which, in his or her opinion, fails to comply in any respect with such regulations or would interfere with the efficient supply of electricity by the Company."

[43] Therefore, given the approval and certification from the Ministry of Works which was granted on 15th December 2005, the court is of the view that Grenlec reasonably discharged its duty of care when it relied on the Ministry's certification of the home of Ms. Oliver to supply its electricity.

[44] Further, even if there was a defect or issue in the Ms. Oliver's electrical installation as Mr. Radix asserts in relation to the absence of bonding wire, the risk of electrical fire or damage to the home of Ms. Oliver was not reasonably foreseeable in the circumstances. It was the evidence that the bonding wire by itself cannot be the cause of a fire.

Conclusion

[45] The court accepts on the evidence that it was the Ministry of Works who had the primary duty and responsibility to ensure that the wiring of the house met the required standards. The claimant's expert is of the view that an electrical fault was the most likely cause of the fire as the required bonding wire was never installed. It

appears from the expert's evidence that an electrical fire, if any, was as a result of the internal wiring and the failure to install the bonding wire. It was the responsibility of the Ministry of Works to have ensured that the dwelling home was in a state of readiness for connection. The Ministry of Works' certification was relied upon by Grenlec to connect electricity to the claimant's dwelling a mere few months before the fire. The Ministry of Works is not a party to the claim. The claimant's pleaded claim and the evidence has failed to provide any cogent proof that Grenlec owed a duty and was in breach of such duty resulting in damage to the claimant. Therefore, the maxim or doctrine of *res ipsa loquitur* as pleaded by Ms. Oliver does not arise in the circumstances.

- [46] Taking all in the round, the court is of the view that the claimant has failed to establish that there was an electrical fault as a result of Grenlec's negligence in order to ascribe liability as asserted in the pleadings. Accordingly, the claim stands dismissed.

ORDER

- [47] Accordingly and for the foregoing reasons, it is ordered that the claimant's claim filed on 21st March 2007 for negligence against Grenada Electricity Service (Grenlec) stands dismissed.

- [48] Notwithstanding that the claimant has not been successful in her claim, it is ordered that costs be assessed, if not agreed within twenty-one (21) days.

Postscript

- [49] it is disheartening that this claim which was filed in March 2007 took fourteen (14) years to be determined. Further, the court must comment that such a devastating fire which led to the death of Ms. Oliver's three minor children is rather unfortunate and further underscores why children, especially minors at such tender ages should

not at any point be left unsupervised and locked in the home, even more so in the late hours of the night, as was in the present circumstances.

Agnes Actie
High Court Judge

By the Court

Registrar