

## **Rixon v Star City Casino [2001] NSWCA 265**

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### **Facts**

Rixon was the subject of an exclusion order from the Sydney Casino, under the relevant Act.

Seemingly unaware he had been excluded, Rixon attended the Casino. He was approached by a casino employee who placed his hand on his shoulder and asked him to go to a room with him.

He remained there for approximately 90 minutes until the police arrived and charged Rixon.

The relevant Act stated that where a person reasonably suspects someone is breaching the Act, they can detain him.

Rixon argued this section should be read down in light of other sections which, inter alia, stated that someone who is the subject of an exclusion order should be escorted off the premises.

Rixon sued for false imprisonment, battery, and assault. After failing at first instance, he appealed.

### **Issue**

Did the conduct of the casino employee amount to false imprisonment, battery or assault?

### **Held**

Sheller JA spent some time interpreting the relevant Act, holding that the correct interpretation was the casino employee had the right to detain a person until the police arrived, where they reasonably suspected a contravention.

While the court acknowledged that clear intent must be shown to deprive someone of their liberty, in this case that intent was made clear and therefore it was not false imprisonment.

In regards to battery, the placing of a person's hand on another's shoulder was found to be a part of normal, everyday life and thus an exception to battery

Assault also failed as the conduct was not accompanied by an intention to create apprehension of impending physical conduct.

Therefore the claim failed on all bases.

### **Quote**

“S 88 enabled an inspector who suspected that a person in the casino premises was the subject of an exclusion order to detain that person in the casino premises until the arrival at

the place of detention of a police officer.” [40]

“her Honour found that Mr Rixon was not detained for any longer than was reasonable to enable a police officer to attend at the casino premises. The evidence was that Mr Perry suspected that Mr Rixon was subject to an exclusion order. He had reasonable grounds for doing so.” [45]

{Re battery claim} More accurately, and consistently with her Honour's findings, it could not be said that the conduct of Mr Sheldon in the circumstances found and clearly for the purpose of engaging Mr Rixon's attention, was not generally acceptable in the ordinary conduct of daily life.” [55]

{Re the assault claim} “In my opinion, the evidence left it open to her Honour to find that the necessary intention to create in Mr Rixon an apprehension of imminent harmful or offensive contact was lacking.” [59]

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