

Brown v. Kendall

60 Mass. (6 Cush.) 292 (1850)

Keyword Subject

Negligence, Tresspass (common law)

Facts

The plaintiff and defendant's dogs were fighting and, in order to break up the fight, the defendant picked up a stick to hit the dogs to separate them. While raising the stick, the defendant struck the plaintiff, who was standing behind him, in the eye.

The defendant was acting lawfully, and there was no indication of unlawful intent

Procedural History

Jury Trial: In favor of Plaintiff

Appeal: In favor of Defendant (New Trial Ordered)

Issue

Does the defendant hold the burden of proof when an unintended consequence results from a lawful act without unlawful intentions?

Holding: No; New Trial Ordered

Principle

The plaintiff holds the burden of proving that a defendant acted either unlawfully or carelessly

Reasoning

If an act is lawful and a purely accidental injury arises, the actor cannot be held liable

Separate Opinions

Notes