

A man tied his dog to a bike rack in front of a store and left the dog there while he went inside to shop. The dog was usually friendly and placid. A five-year-old child started to tease the dog by pulling gently on its ears and tail. When the man emerged from the store and saw what the child was doing to the dog, he became extremely upset.

Does the man have a viable claim against the child for trespass to chattels?

- A. No, because the child did not injure the dog.
- B. No, because the child was too young to form the requisite intent.
- C. Yes, because the child touched the dog without the man's consent.
- D. Yes, because the child's acts caused the man extreme distress.

### Explanation:

**Trespass to chattels** (ie, trespass *de bonis asportatis*) occurs when the defendant **intentionally interferes** with the plaintiff's **possession of a chattel** through dispossession, use, or intermeddling (ie, causing physical contact). Harm is inferred when the interference is through dispossession. But when the interference is through **use** or **intermeddling**, the plaintiff must **prove** one of the following harms:

**actual harm** to the chattel (ie, impairment of its physical condition, quality, or value)

**substantial loss of use** of the chattel or

**bodily harm** to the plaintiff.

Here, the child intentionally interfered with the man's dog (chattel) by pulling on its ears and tail (intermeddling). But there is *no evidence* that:

the man's dog was injured (no actual harm)

the man lost substantial use of his dog or

the man suffered bodily harm.

Therefore, the man does not have a viable claim against the child for trespass to chattels.

**(Choice B)** A child of any age can commit an intentional tort like trespass to chattels as long as the child is capable of forming the requisite intent. Here, the child formed the intent to interfere with the man's possession of his dog through intermeddling when the child teased the dog by pulling its ears and tail. But since the child's intentional act did not cause the requisite harm, the child is not liable for trespass to chattels.

**(Choice C)** Although the child touched the dog without the man's consent (intermeddling), the child is not liable for trespass to chattels because the child did not cause the requisite harm—actual harm to the dog, substantial loss of use of the dog, or bodily harm to the man.

**(Choice D)** Trespass to chattels requires proof that the defendant's use of or intermeddling with the plaintiff's chattel caused the plaintiff bodily harm—not merely emotional harm. Therefore, the man's extreme emotional distress does not support this claim.

### Educational objective:

Trespass to chattels by intentionally dispossessing the plaintiff of a chattel requires no proof of harm. However, intentional use of or intermeddling with the plaintiff's chattel requires proof of (1) actual harm to the chattel, (2) substantial loss of use of the chattel, or (3) bodily harm to the plaintiff.

### References

Restatement (Second) of Torts § 217 (Am. Law Inst. 1965) (trespass to chattels).

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## Trespass to chattels

