

A homeowner's next-door neighbor went into the homeowner's garage without permission and borrowed the homeowner's chain saw. The neighbor used the saw to clear broken branches from the trees on his property. After he had finished, the neighbor noticed several broken branches on the homeowner's trees that were in danger of falling on the homeowner's roof. While the neighbor was cutting the homeowner's branches, the saw broke.

In a suit for conversion by the homeowner against the neighbor, will the homeowner recover?

- A. No, because the neighbor did not intend to keep the saw.
- B. No, because the neighbor was using the saw to benefit the homeowner when it broke.
- C. Yes, for the actual damage to the saw.
- D. Yes, for the value of the saw when the neighbor borrowed it.

Explanation:

Trespass to chattels v. Conversion

Trespass to chattels	<i>Minor</i> intentional interference with plaintiff's right to control chattel Liable for <i>actual damages</i> —eg, cost of repairs, loss of use
Conversion	<i>Substantial</i> intentional interference with plaintiff's right to control chattel Liable for <i>fair market value</i> of chattel at time of conversion

For **conversion**, the plaintiff must prove that:

the defendant intentionally exerted dominion or control over the plaintiff's chattel and the interference was so severe that the plaintiff should recover the **fair market value** of the chattel at the **time of the conversion**.

Here, the neighbor converted the homeowner's saw when he borrowed it without permission and used it to clear broken tree branches on his property. Since the neighbor then broke the saw, the homeowner should recover the fair market value of the saw at the time the neighbor borrowed it—the time of conversion.

(Choice A) Even though the neighbor did not intend to keep the saw, he is liable for conversion because he borrowed the saw without the homeowner's permission and broke it.

(Choice B) A defendant who uses the plaintiff's chattel without permission may be liable for conversion even if he/she acts with the intent to benefit the plaintiff (here, cutting the homeowner's tree branches).

(Choice C) Since the remedy for conversion is the *fair market value* of the chattel, the homeowner can recover the entire value of the saw—not just the actual damage to the saw (eg, repair costs). In contrast, the remedy for trespass to chattels is limited to actual damage.

Educational objective:

Conversion is an intentional exertion of dominion or control over chattel that so seriously interferes with the owner's right of control that the owner should recover the fair market value of the chattel at the time of the conversion.

References

Restatement (Second) of Torts § 222A (Am. Law Inst. 1965) (conversion).

Restatement (Second) of Torts § 227 (Am. Law Inst. 1965) (conversion by using chattel).

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