

A tile contractor was hired to install ceiling tiles in a new, multi-story office building. To speed up the installation process, the tile contractor rented scissor lifts from an equipment rental company. A sprinkler-system contractor who was also working on the building owned several identical scissor lifts that he was using to install sprinkler systems in the ceiling of each of the building's floors. The tile contractor mistakenly directed one of his employees to the wrong floor to retrieve the scissor lift from that floor. Consequently, the employee retrieved one of the lifts owned by the sprinkler-system contractor. The tile contractor used the lift for more than two weeks before the sprinkler-system contractor found and regained possession of the lift. The lift was in the same condition as when the tile contractor had taken it.

The sprinkler-system contractor sued the tile contractor for trespass to chattels, and the tile contractor defended on the basis that his taking and use of the lift was a reasonable mistake.

For whom is the court likely to rule?

- A. For the sprinkler-system contractor, because a reasonable mistake is no defense to a trespass-to-chattels action.
- B. For the sprinkler-system contractor, because the tile contractor's mistake was not a mistake of law.
- C. For the tile contractor, because the condition of the lift had not been changed by his actions.
- D. For the tile contractor, because the sprinkler-system contractor's lift was identical to the ones rented by the tile contractor.

Explanation:

Trespass to chattels (ie, tangible personal property) occurs when the defendant **intentionally interferes** with the plaintiff's **possessory rights** by either:

dispossessing the plaintiff of the chattel *or*
using or intermeddling with the plaintiff's chattel.

Only the intent to do the interfering act is necessary. Therefore, the defendant's belief, because of a **mistake of law or fact**, that he/she was privileged to act is **no defense** to a trespass-to-chattels action **(Choice B)**. This is true **even if** the mistake was **reasonable**.

Here, the tile contractor intentionally dispossessed the sprinkler-system contractor of his scissor lift for more than two weeks. The tile contractor's apparent belief that the lift taken was one of the lifts he had rented (mistake of fact) is no defense—no matter how reasonable that mistake may have been given that the lifts were identical **(Choice D)**. For this reason, the court will likely rule for the sprinkler-system contractor.

(Choice C) In cases of dispossession (as seen here), the plaintiff can recover for loss of use of the chattel without proof of actual harm (eg, damage to the chattel). Therefore, the tile contractor can be liable to the sprinkler-system contractor even though the tile contractor's actions had not changed the condition of the lift.

Educational objective:

Trespass to chattels is an intentional interference with another's tangible personal property through dispossession, use, or intermeddling. The defendant's erroneous belief, because of a mistake of fact or law, that he/she was privileged to do the interfering act is no defense.

References

Restatement (Second) of Torts § 244 (Am. Law Inst. 1965) (effect of mistake on trespass to chattels).

Trespass to chattels

