

Trees and the Law

There is even a case where an injured neighbour was awarded substantial damages from a neighbour who refused to deal with his trees. In *Hayes v. Davis*, which went as far as the B.C. Court of Appeal in 1991, the Hayes' had told their neighbour, Davis, that they were concerned that his trees swayed toward their house during windstorms. They asked him to remove the trees; but he refused, saying he had no money. A few months later, two trees were blown down in a severe storm, injuring Mrs. Hayes. Mrs. Hayes sued for damages for nuisance, and won. Davis, having failed to take reasonable steps to address foreseeable risk of damage or injury, was ordered to pay \$65,000 in general damages and nearly \$3000 in special damages. The conviction stood on appeal, and Davis' attempt to appeal to the Supreme Court of Canada was refused.

In an Ontario case, *Doucette v. Parent* in 1996, the Parents' diseased tree fell during a windstorm and damaged Doucette's property. However, Doucette's claim was dismissed. Although there were a few bare branches, neither party knew that the tree was sick. Growing trees is a natural use of land that does not attract liability; only dead or dying trees and branches that are noticeably liable to cause damage need to be cut back.^(a)

(a) http://workcabin.ca/index.php?option=com_content&task=view&id=62&Itemid=43 and <http://envirolaw.com/2007/08/07/tree-trimming/>