



The Parental Responsibility Act

by D.A.S. Paterson, QC

Everyone should know of this Act. It is intended to make parents somewhat accountable for property damages caused by their under-aged offspring.

If a child deliberately takes, damages, or destroys another person's property, the owner may sue the parent to recover the loss, to a maximum of \$10,000.00. This \$10,000.00 limit matches the present jurisdictional limit for Small Claims Court.

Only one award may be made per child for the same loss. So, if three kids together cause damage to two different owners on the same occasion, presumably the two owners would share the same claim against the parent of each child.

During the lawsuit in

Small Claims Court, there are at least two defences available to the parent under the Act. One allows the parent to prove he/she was exercising reasonable supervision over the child when the loss occurred. This is for the Court to decide based on the facts.

Secondly, the parent may prove as a defence that he/she made reasonable efforts in good faith to stop or discourage the child from the activity which led to the damage to the property.

Factors for the Court to consider regarding such defences are in the Act: age, prior conduct, potential danger of the activity, physical and mental capacity, any mental or physical disorders of the child, whether the danger in the child's activity could have

been reasonably foreseen by the parent, whether the parent was responsible for the child's care and control at the time of loss; if the parent was temporarily out of control, if the parent made reasonable arrangements for supervision, whether the parent had sufficient parenting skills at the time, and whether the parents sought professional assistance to help control the child.

Insurance companies can sue on behalf of the property owner for monies paid out by it.

If a child was ordered to pay restitution monies in a prior criminal prosecution for the same incident, that amount may be considered in assessing damages.

Parents where are your children?!?