

## Torts To Goods

Make sure you consider who has the POSSESSORY title in each problem. Draw a chain of possession.

	Definition	Standing to Sue	Other Notes
<b>Trespass</b>	<p>Positive voluntary act of D which is INTENTIONAL or NEGLIGENT and directly interferes with possession of a chattel which P enjoys AT THE TIME of the act.</p> <p>-No liability for accidental trespass to goods which is not negligent – <i>National Coal Board v JE Evans and Co (Cardiff) Ltd</i>, <i>Beals v Hayward</i></p> <p>So this is a defence!</p>	<p>P must be in POSSESSION AT THE TIME of the trespass.</p> <p>Note: Exceptions -</p> <p>-<i>Wilson v Lombank</i> – if the car is at repair and you have a monthly account then you never give up possession. Otherwise the repairer is entitled to it until you pay the bill.</p> <p>-If you are a bailor AT WILL and a 3<sup>rd</sup> party interferes with the bailee's possession then both bailor and bailee can sue in trespass – <i>Penfold's</i></p> <p>But consider obiter in this case where if bailee does something repugnant then bailor may be able to sue (especially if the chattel is destroyed).</p>	<p>-If a bailor takes a chattel back before the end of the term, the bailee can sue in trespass.</p> <p>-Case law unclear whether just touching a chattel is trespass, but you could still argue it – <i>Everett v Martin</i>.</p> <p>-Moving a chattel is trespass but will only get nominal damages if you or your chattel didn't suffer loss/harm – <i>Kirk v Gregory</i></p> <p>-The interference must be DIRECT – <i>Hartley v Moxham</i>.</p> <p>Consequential injury is not trespass – <i>Hutchins v Maughan</i></p> <p>-Even if you don't know something is there, can still be a trespass – see other page.</p> <p>-If D offers the chattel back then P HAS to take it and damages get reduced, otherwise you are entitled to the value of the goods.</p>
<b>Conversion</b>	<p>An INTENTIONAL act of dealing with a chattel, in a manner inconsistent with P's right to possession of the chattel, so as to amount to the denial of it.</p> <p>Note: No need to intend the consequences, just the ACT that led to them. So essentially it is strict liability.</p> <p>-Note: Must be physical dealing – so sale but no delivery is not a conversion.</p>	<p>P must be in POSSESSION or have an IMMEDIATE RIGHT TO POSSESSION.</p> <p>-So if it is a bailor for a term, the bailee must do something to repudiate the bailor's possession, making him a bailor at will, meaning he will have an immediate right to possession – <i>Penfold's</i>).</p> <p>-Theft is definitely a conversion. But a thief has a higher possessory title to the goods than the police etc. <i>Costello v Chief Constable for Derbyshire</i>.</p> <p>-Mere possession of a chattel gives possessory title – <i>Webb v Chief Constable of Merseyside Police</i>.</p> <p>-The law favours possession at the expense of ownership <i>Armory v Delamirie</i>.</p> <p>-Finders considered on other page.</p>	<p>-Just moving a chattel may not amount to a denial of it, so may not be conversion.</p> <p>-Destroying a chattel or changing its form amounts to conversion, e.g. alive to dead, grapes to wine etc.</p> <p>-Sale of goods without delivery IS NOT a conversion.</p> <p>-Demand and refusal can be a conversion if D is IN POSSESSION. For detinue, D does not need to be.</p> <p>-Returning something to the wrong person amounts to a conversion.</p> <p>Note: Auctioneer's exception on other page.</p> <p>-Joyriding may or may not be, see other page.</p> <p>-Crashing a car note on other page</p> <p>-This is a forced sale so D has to pay and then keeps the chattel.</p> <p>-Damages calculated at date of conversion.</p>
<b>Detinue</b>	<p>An INTENTIONAL or NEGLIGENT unjustifiable/unreasonable detention of a chattel in defiance of P's right to immediate possession.</p> <p>See other page for 'unreasonable'</p>	<p>Immediate right to possession by P. The person detaining, D, does not have to be in possession.</p> <p>-you need to be specific to what you want back and the place and time of return. Detinue doesn't occur until the demand of return – <i>Grant v YYH Holdings</i>.</p>	<p>-The refusal MUST be UNREASONABLE.</p> <p>-You have an option of whether you want the chattel back or not. If you want it back you get paid compensation for not being able to use it, loss of profits etc. and for depreciation.</p> <p>-Damages assessed at date of judgement.</p> <p>-Losing goods may amount to detinue.</p>