

NEWS BOARD



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\$13-million jury award for boy who fell through apartment flyscreen

A Toronto jury has awarded \$13 million in damages to a 10-year-old boy who fell from the fifth-floor window of an Etobicoke, Ontario apartment building in June 1997.

The boy was two years old at the time of the accident. According to the *Toronto Star*, his parents left him in the care of his aunt, who lived in the same apartment building. He was left on a bed that was pushed up against and at the same level as the open window. He broke or fell through a hole in a flyscreen and landed on the grass, very close to a cement walkway.

He suffered multiple serious injuries, including permanent brain injury, as a result of which he will require care for the remainder of his life.

The boy's family commenced a legal action against the occupier of the apartment and the building owners, managers and superintendent. The jury trial commenced in October 2005 and lasted almost 12 weeks, with a three-week break for the holidays.

The jury of three men and three women heard that the boy's aunt had reported the damaged screen to the building superintendent but that no repairs had taken place.

The jury concluded that the defendants had breached their duty of care to the plaintiff. Liability was apportioned 10 per cent against the occupier and 90 per cent against the building owner. If the occupier has no assets or insurance coverage, the building owner may have to pay the entire award.

The jury assessed damages at \$13 million, including more than \$11 million for the cost of future care—a record award in Canada.

Plaintiff's costs and damages for future guardianship costs are still to be determined by the judge alone. This verdict establishes several precedents, including the record award for future care, so we think an appeal is highly likely.