

COURT OF APPEAL FOR ONTARIO

CITATION: Smith v. Loblaw Companies Limited (Real Canadian Superstore),
2015 ONCA 504
DATE: 20150703
DOCKET: C58386

Doherty, Pepall and Huscroft JJ.A.

BETWEEN

Makenzie Smith, a minor, by her Litigation Guardian, Sandra Smith and Sandra
Smith

Plaintiffs (Respondents)

and

Loblaw Companies Limited carrying on business as The Real Canadian
Superstore

Defendant (Appellant)

Daniel J. Fife and Maple Anne Cameron, for the defendant (appellant)

Joseph Dallal and Lesley Parsons, for the plaintiff (respondent) Makenzie Smith

Heard: July 2, 2015

On appeal from the judgment of Justice Ramsay of the Superior Court of Justice,
dated January 14, 2014, sitting with a jury.

APPEAL BOOK ENDORSEMENT

[1] We do not agree that the jury's verdict is unreasonable. The appellant acknowledged a duty of care to the respondent. In our view, the failure to

provide any training in the proper supervision of the children provided a basis upon which the jury could conclude that the appellant breached its duty.

[2] Finally, on the causation instruction (agreed upon by the parties), it was open to the jury to find that the failure to provide adequate training of its staff was causative of the respondents' injuries.

[3] On the second issue, we do not agree that the jury's response to Question 2 warrants our intervention. The jury's answer must be given a "full and liberal" reading in light of the evidence. Taking that approach, we read the word "may" in the second sentence of the answer as speaking to the material contribution requirement in causation as put to the jury and not to the burden of proof on factual issues. Viewed in this way, there is no ambiguity in the jury's answers.

[4] The appeal is dismissed. Costs are awarded to the respondent in the amount of \$10,000, inclusive of disbursements and all taxes.