

Kelsen v Imperial Tobacco Co (of Great Britain and Ireland) Ltd [1957] 2 QB 334

<http://lawcasesummaries.com/knowledge-base/kelsen-v-imperial-tobacco-co-of-great-britain-and-ireland-ltd-1957-2-qb-334/>

Facts

- The Plaintiff owns a tobacco store, and the Defendant is his neighbour
- The D erected a sign which overhung the roof of the P's store by some distance
- P alleges trespass

Issue

Does the nature of the property right to the airspace above the shop's land allow an action in trespass?

Held

- Prima facie, the lease of land includes the airspace
- Just because the airspace is not needed, doesn't mean it doesn't belong to the leaser
- It can be trespass to use airspace of another (that is why Civil Aviation Acts expressly grant permission)

Law case summary from www.lawcasesummaries.com