**Case title:** Ontario (Attorney-General) v. Dieleman

**Case Number:** 7509 (ON SC)

**Country or Region:** Canada, Ontario

**Name & status of court or arbiter:** Ontario Supreme Court (General Division) – the largest superior court in Canada – unreviewable

**Date of decision:** 4 April 1995

**Relevant law:** Canadian Charter of rights and freedoms, section 2(c) (freedom of assembly)

**Decision:** ‘The defendants are restrained from picketing or encouraging picketing within a five-hundred foot (500’) radius of where the property lines intersect the public sidewalk or roadway where no sidewalk exists, at the homes of doctors.’

**Summary:**

**a)Facts:**

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| The Attorney-General seeks to enjoin all anti-abortion protest activity occurring within five hundred feet (500) of twenty-three (23) locations across Ontario, which included hospitals, free-standing abortion clinics, the offices of physicians and the homes of physician (para.1). However, this protest is claimed as ‘public nuisance’ since it caused interference in accessing safe abortion services and defendants based their argument on their constitutional freedoms of expression, assembly and religion (paras.1-2). The Attorney-General of Ontario ‘seeks an interlocutory injunction’ which refrains the defendants from various actions which includes picketing (para.3).  |

**Decision:**

The order of the Attorney-General which refrains defendants from picketing outside specific locations is in violation with the freedom of assembly as set out in s. 2(c) of the Charter (para.702). Also, picketing outside hospitals, free-standing abortion clinics and the home of physicians (in total 23 locations) aiming at expressing their disapproval against abortions, ‘constitutes a reasonable limit in a free and democratic society’ (para.702).

**Resources:**

[Judgment of the Court](http://www.canlii.org/en/on/onsc/doc/1994/1994canlii7509/1994canlii7509.html)

**Case title:** B.C.G.E.U. v. British Columbia (Attorney General)

**Case Number:** [1988] 2 SCR 214

**Country or Region:** Canada, Ontario

**Name & status of court or arbiter:** Supreme Court of Canada– unreviewable

**Date of decision:** 20 October 1988

**Relevant law:** Canadian Charter of rights and freedoms, section 2(c) (freedom of assembly)

**Decision:** ‘The order by the Chief Justice of the Supreme Court of British Columbia, which restrained picketing and other activities within the precincts of all court‑houses in British Columbia, did infringe or deny the freedom of assembly.’

**Summary:**

**a)Facts:**

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| On the morning of 1st November1983, ‘pickets were posted at the entrances to and within the precincts of, the courts of justice in Vancouver and at all other courts of justice in the province of British Columbia’, after the strike action taken by the appellant, British Columbia Government Employees Union (para.2). ‘The strike came at a time of the year when all the courts of the province were in session.’ (para.2) ‘The Union did issue "picket passes" whereby it purported to authorize people, including officers of the court, to pass through the picket lines’ (para.2) .The note by the Chief Justice claimed that the note ‘only precluded picketing’ without requiring the staff of the courts ‘to resume the discharge of their duties’ (para.13). ‘When the Union commenced the strike at midnight on October 31, 1983 against the Government of British Columbia the services of all government employees were withdrawn except certain excluded supervisory personnel and some who were required for the performance of essential services.’ (para.13)  |

**Decision:**

‘The order by the Chief Justice of the Supreme Court of British Columbia dated November 1, 1983 restraining picketing and other activities within the precincts of all court‑houses in British Columbia did infringe or deny the freedom of assembly as guaranteed by s. 2 (b) of the Charter’ (para.73).

**Resources:**

[Judgment of the Court](https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/366/index.do)

**Case title:** Suzanne Smiley v. the City of Ottawa

**Case Number:** 2012 ONCJ 479 (CanLII)

**Country or Region:** Canada, Ontario

**Name & status of court or arbiter:** Ontario Court of Justice– reviewable by Court of Appeal of Ontario

**Date of decision:** 16 June 2012

**Relevant law:** Canadian Charter of rights and freedoms, section 2(c) (freedom of assembly)

**Decision:** ‘Mrs. Smiley occupied the park over a 48 hour period including the time of the Notice of Trespass. Upon the arrival of the police and given instructions to vacate the property, she refused and was therefore legally trespassed.’

**Summary:**

**a)Facts:**

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| On November 23, 2011, Suzanne Smiley, took part in an occupation (i.e. physically occupied a public space often through the use of tents and other built structure) in Confederation Park, which is across from the Ontario and Superior Courts of Justice and near Ottawa City Hall and down the street from the Cenotaph, the National Arts Centre, the British Embassy, and the House of Commons and Senate of Canada. (paras. 1-4) The Ottawa Police Service warned participants that ‘their time was up in the park, given a number of community and service concerns, and they would have to leave the location.’ (para.5) ‘She was personally given a directive under the TPA to vacate Confederation Park at 3:25 A.M., on November 23, 2011, and upon her refusal was escorted from the park and given a notice of infraction.’ (para.6)  |

**Decision:**

‘The duly constituted government organizations in a free and democratic society have the right to issue trespass notices and follow through on that action when any person or group disobeys the governing rules, regulations and bylaws which are open to judicial and electoral review.’ (para.49) Protesters are entitled to access public parks ‘during the normal hours of operation of the public place to express themselves’. (para.50) However, this freedom is subject to ‘reasonable limits prescribed by law and are demonstrably justified in a free and democratic society’ (para.51) ‘Mrs. Smiley occupied the park over a 48 hour period including the time of the Notice of Trespass. Upon the arrival of the police and given instructions to vacate the property, she refused and was therefore legally trespassed.’ (para.56)

**Resources:**

[Judgment of the Court](http://www.canlii.org/en/on/oncj/doc/2012/2012oncj479/2012oncj479.html?searchUrlHash=AAAAAQAUZnJlZWRvbSBvZiBhc3NlbWJseSAAAAAAAQ&resultIndex=26)