

InsureIntelligence



WHEN THE TREE FALLS WHO PAYS?

“Good fences make good neighbors” according to the poet, Robert Frost, but **what happens when your neighbor’s tree falls on your fence and also damages your house?** Who pays?

1. You Pay
2. Your Neighbor Pays
3. You Both Pay

Depending on the condition of the tree and communication between you and your neighbor either 1, 2, or 3 could be correct. Most Homeowners insurance policies cover damage to your fence and home from a falling tree subject to the deductible you have selected. Therefore the question of who pays will most likely involve both your homeowners insurance company and your neighbor’s. Also, a deductible will be paid. Let’s examine three situations involving a tree falling.

Your neighbor’s healthy tree falls on your house.

If the tree is truly healthy and shows no signs of disease or dead limbs, then your neighbor will not be considered negligent. Therefore your insurance company should pay to repair the damage to your house. Of course this means that you have had to pay a deductible of \$250 to \$1000. This seems unfair since it was not your fault, But, generally this

the case. But let’s see what happens in the next case.

Your healthy tree falls on your neighbor’s house.

In this situation your neighbor’s homeowners insurance company should pay to repair the damage caused by your healthy tree. Just as in the previous case, the deductible will have to be paid by the homeowner. Perhaps, you really like your neighbor and even though you are not “negligent” you can offer to pay your neighbor’s deductible. Or, perhaps now is a good time (before a tree falls) to discuss this with your neighbors and decide that if a healthy tree falls each neighbor will pay their own deductible.

Your neighbor’s un-healthy tree falls on your house.

If your neighbor knew, or should have known that the tree was diseased and failed to have it removed, then you may recover the damage to your home from your neighbor or your neighbor’s insurance company. The key issue; **“Did you put your neighbor on notice that the tree was a hazard to you and your property?”** If you had noticed that the tree was diseased and notified your neighbor in writing, then your chances of collecting the full cost of repair are very good. Presented with a copy of the letter, your neighbor’s insurance company will most likely pay for the damages. However, if they are reluctant, your own insurance company will pay for the repair (less your deductible) and then attempt to collect from your neighbor’s insurance company (including your deductible).