

with Rule 904 in this respect. This term "exigible under execution" in the Act referred to meant a legal execution only, as that statute related exclusively to "certain duties, liabilities and fees of sheriffs," and I am of opinion that the same meaning to these words attaches to them in Rule 903 as in sec. 9, ch. 5, 56 Vict. (O.), and that equitable execution or the appointment of a receiver is not included by their use. As to the difference between a legal and equitable execution, I would refer to *In re Shepherd*, 38 W. R. 133

The motion, must be refused.

Parker & Bickford, Toronto, solicitors for plaintiffs.

Robertson & Maclellan, Toronto, solicitors for defendants.

MACMAHON, J.

FEBRUARY 10TH, 1902

TRIAL.

KEITH v. OTTAWA AND NEW YORK R. W. CO.

Railway and Railway Companies—Injury to Passenger—Alighting from Moving Car—Contributory Negligence.

Washington v. Harman, 147 U. S. R. 571, and Central R. W. Co. v. Miles, 88 Ala. at p. 261, referred to.

Action to recover damages for injuries sustained by plaintiff, who endeavoured to get off a train as it was moving out of Finch station.

George McLaurin, Ottawa, for plaintiff.

W. Nesbitt, K.C., and W. H. Curle, Ottawa, for defendants.

MACMAHON, J.—At the conclusion of the trial I submitted certain questions to the jury, which, with their answers, are as follows:

(1) How long did the train stop at Finch station? A. Cannot say.

(2) Was the time the train remained there sufficient to enable the plaintiff to alight? A. No.

(3) Was Keith aware when he reached the platform of the car that the train was in motion? A. Yes.

(4) If Keith was guilty of any negligence which contributed to the accident, what was such negligence? A. None.

(5) If Keith is entitled to recover, at what do you assess the damages? A. \$1,000.00.