

JANUARY 16TH, 1906.

DIVISIONAL COURT.

BUCK v. CANADIAN PACIFIC R. W. CO.

*Railway—Injury to Passenger—Negligence—Invitation to
Alight—Calling out Name of Station—Findings of Jury
—New Trial.*

Motion by defendants to set aside verdict and judgment for plaintiff for \$500 damages and costs in an action for negligence resulting in injuries to plaintiff, tried before BRITTON, J., and a jury at Milton, and to dismiss the action or for a new trial.

Plaintiff, a young woman of 23, was a passenger in a train of defendants from Guelph Junction to Milton. When the train left Guelph Junction, a brakesman called out that Milton was the next station, and when the train stopped or slowed up at the Grand Trunk diamond, before reaching Milton, plaintiff, thinking Milton had been reached, went out on the car platform, and, the vestibule door being open, and the train giving a jolt, the plaintiff was thrown from the platform to the ground and injured. It was shewn that plaintiff knew that the practice was to call out "Milton" again before reaching that station, and it had not been called out when plaintiff went on the platform. The following were the questions put to the jury, with their answers: (1) Were defendants guilty of any negligence in respect to plaintiff as a passenger on train No. 6 on the evening of 12th September, 1904? Yes. (2) If so, what was that negligence? For not have the door of the vestibule properly closed. (3) Was the negligence, if you find any, the cause of the accident to plaintiff? Yes. (4) Did the train on the occasion in question come to a stop at or near the distant semaphore in approaching Milton, or at any point after leaving Guelph Junction and before the accident happened? We believe the train did stop. (5) Could plaintiff, by the exercise of reasonable care, have avoided the accident to her? Believing as we do that she was jolted off car, had no time to exercise care.

Shirley Denison, for defendants.

W. E. Middleton and W. I. Dick, Milton, for plaintiff.

The judgment of the Court (BOYD, C., STREET, J., MABEE, J.) was delivered by

BOYD, C.:—The jury have found that plaintiff was injured by the negligence of defendants, and that the