

PEPPIATT V. REEDER—HODGINS, J.A., IN CHAMBERS—APRIL 22.

*Appeal—Order or Decision of Master—Appeal to Judge under Rule 504—Failure to Comply with Rules 502, 503—Powers of Master on Reference—Damages—Set-off.*]—Appeal by the defendant from a ruling or order of the Master in Ordinary in the course of a reference. HODGINS, J.A., said that the decision of the Master could not be supported, and that it was ineffective to bind the parties. A direction to set off damages or moneys against that due or coming due under the instruments in question might have been made by the Court which ordered the reference. But this was not done. Under the judgment in its present form the Master could only ascertain and report the damages. He could not give a direction the effect of which was to disable the parties from enforcing their rights under the instruments upheld by the Court, or to embarrass their action. Notwithstanding this, the appeal must be dismissed, as the appellant had not complied with the practice in procuring and filing a certificate from the Master. Under Rule 504, no appeal lies from a decision except after observing the provisions of the two preceding Rules. The costs of the appeal to be set off against the payments due or accruing due. J. J. Gray, for the defendant. E. Meek, K.C., for the plaintiff.