

subsequently took place between the parties as to the engine.

Holding the opinion as above, I see no reason, upon appeal of defendants, for interfering with the decision of the trial Judge. It might well be argued that plaintiffs are entitled to more than the relief given, but plaintiffs have not appealed. They are entitled to as much at least as the present judgment gives them, so I think this appeal should be dismissed with costs.

FALCONBRIDGE, C.J., gave reasons in writing for the same conclusion.

RIDDELL, J., dissented, for reasons stated in writing.

AUGUST 26TH, 1907.

DIVISIONAL COURT.

BROWN v. DULMAGE.

Sale of Goods — Contract — Failure to Carry out — Resale by Vendor — Conversion — Possession — Purchase Money — Tender — Rescission — Damages — Costs.

Appeal by plaintiff from order of MABEE, J., in the Weekly Court, allowing an appeal from the report of the Master in Ordinary finding that plaintiff was entitled to recover \$968.89 damages in an action for conversion.

The appeal was heard by FALCONBRIDGE, C.J., BRITTON, J., RIDDELL, J.

F. E. Hodgins, K.C., for plaintiff.

E. L. Dickinson, Goderich, for defendant.

RIDDELL, J.:—On 28th May, 1903, the defendant entered into a contract with the plaintiff for the sale to him of a stock of goods, &c., in Wingham. The agreement is in writing, and the important terms are as follows:—

“Stock fixtures, &c., in the Kent block to be sold at 40 cents on the dollar invoice price, any dispute to be re-