

notice of the proceedings before the Master, and an order was made on the 10th October, 1918, referring the matter back to the Master. The reference again proceeded, and a further report was made on the 15th January, 1919, in which the Master found that the claim of Arnold failed. The trusts corporation then moved to confirm the two reports, except as to paras. 4, 5, 6, and 7 of the first report, and paras. 2 and 4 of the second, from which they appealed. The appeal and motion were heard in the Weekly Court, Toronto. SUTHERLAND, J., in a written judgment, after stating the facts, said that the Master was right in deciding that Robertson Brothers Limited, claimants, were entitled to the sum of \$643.81 in priority to the trusts corporation; for, although the order on the fund in favour of the Robertson company was subsequent to the equitable assignment to the trusts corporation, the Robertson company had given earlier notice to the Grand Trunk Railway Company; but that the claim of T. M. Harris was not entitled to priority, because he had not given notice to the railway company. Harris had in fact given notice to the Corporation of the City of Toronto, who, under an order of the Dominion Board of Railway Commissioners, were to pay one-third of the cost of the work in connection with which the expropriation was made; but the award was for payment by the railway company, and Harris should have given the railway company notice of his claim. The appeal should be allowed as to Harris and dismissed in other respects. The report as varied should be confirmed. The costs of the original application and of the reference should be paid out of the fund. Arnold should pay the costs of the reference back to the Master. Neither Arnold nor Harris should have any costs of the present motion, but the costs of all the other parties in respect thereof should be paid out of the fund. The moneys in Court should be paid out accordingly, notwithstanding the stop-order. William Proudfoot, K.C., for the Toronto General Trusts Corporation. G. Cooper, for Pennock Brothers. D. Henderson, for Robertson Brothers Limited. J. A. Macintosh, for T. M. Harris. A. C. Heighington, for James G. Arnold. ❧ ❧ ❧