

SUTHERLAND, J.

JANUARY 2ND, 1917.

## \*RE WHITE AND CITY OF TORONTO.

*Municipal Corporations—Expropriation of Land—Compensation—Award—Interest—Rents—Computation from Date of Expropriating By-law—Power of Arbitrator to Amend Award after Time for Appeal Expired—Enforcement of Amendment Award—Municipal Arbitrations Act, R.S.O. 1914 ch. 199, secs. 2 (2) (e), 7—Arbitration Act, R.S.O. 1914 ch. 65, secs. 4, 10 (c).*

Motion by an owner of land expropriated by the city corporation under a by-law passed on the 19th May, 1913, for an order for leave to enter judgment in the applicant's favour for the amount awarded as compensation by an award of the Official Arbitrator, dated the 8th July, 1916.

By the award it was adjudged that the city corporation should pay to the claimant (land-owner) \$41,000 in full compensation for taking his land, together with his costs of and incidental to the arbitration, with the fees of the arbitrator and stenographer.

The award was duly filed, together with the written reasons of the arbitrator, and notice given. The last clause of the arbitrator's reasons was: "The claimant is entitled to interest from the date of the expropriating by-law, and the contestant to the rents received from such day by the claimant."

In the award itself no reference was made to rents or interest. No appeal was taken from the award within the six weeks allowed by sec. 7 of the Municipal Arbitrations Act, R.S.O. 1914 ch. 199. Subsequently, upon the application of the corporation, on notice served on the 25th October, 1915—the claimant appearing and objecting—a written amendment of the award was made by the arbitrator on the 21st November, 1916, so as to accord with the clause of his reasons above-quoted, i.e., allowing the claimant interest and the corporation the rents received from the date of the by-law.

The claimant maintained that the arbitrator was functus officio when he made the amendment; and that there should be judgment for the amount of the award, together with the rents down to the time the corporation went into possession (1st September, 1915), and with interest from that date, after giving proper credit for a sum paid on account.

The motion was heard in the Weekly Court at Toronto.