

1. The Act of the late Parliament of Canada, passed in the twenty-seventh and twenty-eighth year of Her Majesty's reign, chapter thirtieth, and intituled "An Act to afford a more expeditious remedy as regards tenants overholding, wrongfully, in Upper Canada," is hereby repealed; Provided, always, that all proceedings had, or taken under the said Act, shall not be affected by the repeal of the said Act, but the same may be carried on and finally determined under the provisions of the said Act as the same might be if the said Act had not been repealed.

2. In case a tenant, after his lease or right of occupation whether created by writing or by verbal agreement has expired, or been determined, either by the landlord or the tenant, by a notice to quit or notice pursuant to a proviso in any lease or agreement in that behalf, or has been determined by any other act whereby a tenancy or right of occupancy may be determined or put an end to, wrongfully refuses, upon demand made in writing, to go out of possession of the land demised to him or which he has been permitted to occupy, his landlord or the agent of his landlord, may apply to the County Judge of the county, or union of counties, in which such land lies, in term or in vacation, and wherever such Judge may then be, setting forth on affidavit the terms of the demise or right of occupation, if verbal, and annexing a copy of the instrument creating or containing such demise or right of occupation, if in writing; or if a copy cannot be so annexed by reason of the said writing being mislaid, lost or destroyed, or being in the possession of the tenant or from any other cause, then annexing a statement setting forth the terms of the demise or occupation and the reason why a copy of the said writing cannot be annexed, and also annexing a copy of the demand made for the delivering up of possession, and stating also the refusal of the tenant to go out of possession, and the reasons given for such refusal, if any were given, adding such explanation in regard to the ground of such refusal as the truth of the case may require; and this section shall extend, and be construed to apply to tenancies from week to week, from month to month, from year to year, and tenancies at will, as well as to all other terms, tenancies, holdings or occupations.

3. If, upon such affidavit, it appears to such County Judge that the tenant wrongfully holds, without colour of right, and that the landlord is entitled to possession, such Judge shall appoint a time and place at which he will enquire and determine whether the person complained of was tenant to the complainant for a term or period which has expired, or has been determined by a notice to quit or otherwise, and whether the tenant without any colour of right holds the possession against the right of the landlord, and whether the tenant does wrongfully refuse to go out of possession, having no right to continue in possession, or how otherwise.

4. Notice in writing of the time and place so appointed by the County Judge for holding such inquiry, shall be, by the landlord, served upon the tenant or left at his place of abode, at least three days before the day so appointed, if the place so appointed be not more than twenty miles from the tenant's place of abode, and one day in addition for every twenty miles above the first twenty, reckoning any broken number above the first twenty as twenty miles, to which notice shall be annexed a copy of the affidavit on which the appointment was obtained, and of the papers attached thereto.

5. If at the time and place appointed, as aforesaid, the tenant, having been duly notified, as above provided, fails to appear, the County Judge, if it appears to him that the tenant holds without colour of right, may order a writ to issue to the sheriff, in the Queen's name, commanding him forthwith to place the landlord in possession of the premises in question; but if the tenant appears at such time and place, the County Judge shall, in a summary manner, hear the parties, and examine into the matter, and shall administer an oath or affirmation to the witnesses adduced by either party, and shall examine them; and if after such hearing and examination it appears to the County Judge that the case is clearly one coming under the true intent and meaning of the second section of this Act, and that the tenant holds without colour of right against the right of the landlord, then he shall order the issue of such writ, as aforesaid, otherwise he shall dismiss the case; and the proceedings, in any such case, shall form part of the records of the County Court: and the said writ may be in the form or to the effect of forms number one or number two, in Schedule A, forming part of this Act, according as the tenant is ordered to pay costs or otherwise, and on any such examination the parties shall be competent witnesses.

6. Where any such writ has been issued, either of the superior courts of common law for the Province of Ontario, may, on motion, before the end of the second term after the issue of such writ, command such County Judge to send up the proceedings and evidence in the case to such superior court certified under his hand, and may examine into the proceedings, and if they find cause may set aside the same, and may, if necessary, order a writ to issue to the sheriff, commanding him to restore the tenant to his possession, in order that the question of right, if any appear, may be tried, as in other cases of ejectment.

7. The judges of the superior courts of common law, for the Province of Ontario, may, from time to time, make such orders respecting costs, in cases under this Act, as to them may seem just; and the County Judge, before whom any such case is brought, may, in his discretion, award costs therein, according to any such order then in force, and if no such order is in force, reasonable costs, in his discretion, to the party entitled thereto; and