

lease, distrained for and received rent subsequently accruing due, it was held that such course did not, *per se*, set up the former tenancy, which ended on the election to forfeit manifested by the issue of the writ, but might be evidence for the jury of a new tenancy on the same terms from year to year: *McMullen v. Vannatto* (1893), 24 Ont. R. 625.

In Ontario it is provided by statute that a waiver of the benefit of a covenant or condition in a lease shall not be deemed to extend to any instance or breach thereof, other than that to which it specially relates, unless a contrary intention appears. This is enacted by section 16 of the Landlord and Tenant Act, R.S.O. 1897, ch. 170.

A waiver of a forfeiture made by the beneficial owner of unpatented land under lease, is binding on the purchaser who afterwards obtains a patent with notice of the lease: *Flower v. Duncan* (1867), 13 Gr. 242.

It has been held that where the action is against defendant as plaintiff's tenant for a forfeiture, the receiving of rent after the writ of possession has issued, is a waiver of the execution: *Bleecker v. Campbell* (1857), 4 C.L.J. (O.S.) 136. There can be no waiver after entry for a forfeiture: *Thompson v. Baskerville* (1879), 40 U.C.R. 614.

The landlord's conduct in permitting his tenant's assignee of the term to take possession and in accepting payment of his rent from the latter without claiming any forfeiture and his objection to signing a written consent to the transfer on the ground that it was not necessary, will amount to a waiver of a covenant which requires a written consent to the assignment of a lease: *Minuk v. White* (1905), 1 W.L.R. 401 (Man.).

The plaintiff's deceased testator in his lifetime leased to the defendant the Royal Hotel Block, consisting of an hotel, barber shop, stores, offices and stable, for a term of years. The lease contained lessee's covenants not to sell, assign, let or otherwise part with the demised premises without leave in writing and not to alter the premises without leave in writing. The lessor roomed in the hotel and usually took his meals there. During his lifetime certain alterations were made in the premises and other alterations were commenced, without his written consent, but with his knowledge and implied consent and acquiescence, and after his death the alterations were continued, with the knowledge of the plaintiff. One sub-tenant had without leave in writing from the head lessor assigned his lease. In the case of two other sub-leases the rent had been increased without consent, and in respect of another a monthly tenancy on a verbal lease had been changed without consent to a two-years' term, with a lease in writing, at a higher rent. The dining-room of the hotel had been placed under separate management on an agreement that the manager should pay defendant a fixed sum of the income from the dining-room and should be entitled to the balance earned by the dining-room. In an action by the executor of the lessor against the lessee claiming forfeiture of the lease on account of the breach of covenants, the Court held that (1) an assignment without consent by a sub-lessee of his lease which has been granted with consent is no breach of the lessee's covenant in the head lease not to assign without leave. (2) The mere increase in