

Windsor, on the ground of insufficient property qualification, according to the requirements of sec. 76 of the Municipal Act, 1903.

D. L. McCarthy, for appellant.

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

TEETZEL, J.:—The appellant is the manager of the business of the Shedden Cartage Co. at the city of Windsor. The company own lots 41 and 42 on the south side of Arthur street in that city, upon the front of which is a dwelling-house occupied exclusively by the appellant and his family, and upon the rear of the lots is a barn used exclusively by the company. . . .

The two lots with the buildings are assessed in the name of the appellant as tenant for \$3,200, made up of \$600 for the lots and \$2,600 for the buildings; and, while on the assessment roll the values of the buildings are not separated, I find upon the evidence that the house is worth at least \$1,600.

It was argued that the company and the appellant were joint tenants within the contemplation of sec. 93 of the Municipal Act, and therefore the appellant could only be considered as qualified to the extent of \$1,600, being \$400 short of the necessary qualification under sec. 76.

I am of opinion, however, upon the evidence, that, except as to the passage way or entrance from the street, there was no joint or common occupancy between the appellant and the company, but a separate occupancy of the respective buildings.

There is no evidence whatever of the value of that portion of the lots occupied by and appurtenant to the barn, as distinct from that portion occupied by and appurtenant to the house, and, with great respect, I think the learned Judge erred in his finding that the last mentioned portion and the house were not of the assessable value of \$2,000, and in assuming that the burden was upon the appellant to prove such value.

That the whole land was worth \$600 was not contested, and the assessor swore that the house was worth from \$1,600 to \$1,800. Upon the assessment roll the appellant was assessed in his own name as tenant for \$3,200, and was, therefore, *prima facie* qualified under sec. 76, and I think the