

Held, that the defendants were not answerable at common law for such neglect, which was that of the plaintiff's fellow-servant, nor under the Workmen's Compensation for Injuries Act, R.S.O. 1897, c. 160, for the fellow-servant was not a person having any superintendence entrusted to him, within ss. 2 (1) and 3 (2).

By s. 20, sub-s. 1 (d), of the Ontario Factories Act, R.S.O. 1897, c. 256, in every factory all elevator cabs are to be provided with some suitable mechanical device to be approved by the inspector, whereby the cab will be securely held in the event of accident.

Held, that the defendants' store was a factory within the meaning of the Act, and the onus of proving that the brake and "dogs" in use in connection with the elevator was upon the defendants; but it was not necessary for them to shew that the device in its concrete form as part of the elevator had been approved; it was sufficient that the kind of device used had been approved.

Held, also, that in order to render the employer liable to a civil action it was incumbent on the plaintiff to make out the causal connection between the omission to provide the statutory safeguards and the injury complained of; and that she had not done.

Masten, for plaintiff. *W. Nesbitt*, Q.C., and *John Greer*, for defendants.

Province of Nova Scotia.

SUPREME COURT.

Full Court.] RUSSELL v. MURRAY. [Nov. 13, 1900.

Landlord and tenant—Overholding—Forcible entry—Costs.

On an action brought by plaintiff against defendant claiming damages for forcibly and unlawfully entering a house occupied by plaintiff as tenant of defendant and ejecting the plaintiff therefrom, costs were refused to plaintiff on the ground that each party had succeeded on one issue; that although defendant had technically violated plaintiff's right of possession, plaintiff was withholding possession in violation of good faith.

Held, that the reasons given were sufficient and that plaintiff's appeal must be dismissed. *Rice v. Ditmars*, 21 N.S.R. 140, followed.

H. V. Bigelow, for appellant. *F. A. Laurence*, Q.C., for respondent.

Full Court.] THE BANK OF MONTREAL v. BENT. [Nov. 15, 1900.

Practice—Discretion of Chambers Judge—Appeal.

On a motion at Chambers to set aside defendant's pleas as false, frivolous and vexatious, defendant applied for leave to cross examine