

if and so far as it conflicted with the present decision it was not to be followed.

The appeal should be allowed with costs here and below.

MASTEN and KELLY, JJ., concurred, for reasons stated by MASTEN, J., in writing.

MEREDITH, C.J.C.P., read a judgment in which he expressed the opinion that the order was one that might properly be made after judgment if the circumstances warranted it, pointing especially to the provisions of Rule 523. On the question of jurisdiction, he said, he would have no hesitation in dismissing the appeal; but, on the merits, the order ought not to have been made.

Appeal allowed.

SECOND DIVISIONAL COURT.

JANUARY 19TH, 1917.

*WALSH v. WEBB.

Division Courts—Increased Jurisdiction—Division Courts Act, R.S.O. 1914 ch. 63, sec. 62 (1) (d)—Ascertainment of Amount Claimed—Necessity for Extrinsic Evidence—Lease—Action for Rent—Liability of Guarantor—Appeal—Dismissal of Action—Costs.

Appeal by the defendant William S. Webb from the judgment of the First Division Court of the United Counties of Northumberland and Durham in favour of the plaintiff in an action to recover a year's rent of land.

The appeal was heard by MEREDITH, C.J.C.P., RIDDELL, KELLY, and MASTEN, JJ.

F. Regan, for the appellant.

No one appeared for the plaintiff or the other defendant.

RIDDELL, J., read a judgment in which he said that the plaintiff sued the defendant William P. Webb, as tenant under a written lease dated the 19th September, 1912, for \$200 for rent from the 1st March, 1915, to the 1st March, 1916, and the defendant William S. Webb (the appellant), who was a party to the lease, and had thereby "covenanted and agreed to pay said lessor said rent in case the lessee makes default in payment of same when due and payable." The appellant filed a dispute-note, setting