

The question was, whether the allegations contained in the statement of claim shewed the plaintiff to be entitled to the relief claimed or any part of it. The plaintiff had no cause of action except such as the Act gave him.

Reference to sec. 17 and sec. 18 (as amended).

The defendants, relying on *Re Hogan v. Township of Tudor* (1915), 34 O L.R. 571, contended that the plaintiff had no cause of action. It was decided in that case merely that the amount of damages must be determined in manner provided by the Act, and not by the Court.

The plaintiff alleged in the statement of claim that, within the time mentioned in sec. 18, he applied to the council for compensation, and satisfied the council that he had made diligent search and inquiry to ascertain the owner or keeper of the dog or dogs, "without result." Having regard to the context, the words "without result" should be interpreted as meaning that "the owner or keeper . . . cannot be found" (sec. 18). It would be better pleading if the plaintiff followed the words of the statute, and he should have leave to amend, if he desired it.

On being thus satisfied, it became the duty of the council to award for compensation to the plaintiff a sum equal to the amount of his damage.

The direction to the council to award compensation is mandatory. The council, not having obeyed the statute, may be required by mandamus to do so, and therefore to that extent the plaintiff is entitled on his pleading to relief.

*Motion dismissed with costs.*

CLUTE, J.

DECEMBER 26TH, 1917.

\*MURPHY v. CITY OF TORONTO.

*Evidence—Workmen's Compensation Act—Contractor—Assessment—Leave to Adduce Further Evidence after Judgment—Leave to Serve Third Party Notice on Workmen's Compensation Board—Refusal of—Practice—Parties—Board not Amenable to Jurisdiction of Court.*

Motion by the defendants for leave to adduce further evidence "that the Workmen's Compensation Board duly made an assessment on the plaintiff, and gave notice of the same to the plaintiff,