

SECOND DIVISIONAL COURT.

MAY 21ST, 1917.

*RE CITY OF HAMILTON AND UNITED GAS AND FUEL
CO. OF HAMILTON LIMITED.

Contract—Natural Gas Company—Municipal Corporation—Supply of Gas—By-law—Rates to be Charged—Minimum Monthly Charge—Breach of Contract—Order of Ontario Railway and Municipal Board—Jurisdiction—Ontario Railway and Municipal Board Act, R.S.O. 1914 ch. 186, sec. 21—Appeal.

Appeal by the company (by leave) from an order of the Ontario Railway and Municipal Board of the 22nd March, 1917, directing the company to carry out its agreement with the city corporation, contained in a certain by-law, and forbidding the company to require from each applicant for gas a contract binding such applicant, in breach of the terms of the by-law, to pay a minimum monthly or quarterly charge.

The Board held that it had jurisdiction to determine the question raised, under sec. 21 of the Ontario Railway and Municipal Board Act, R.S.O. 1914 ch. 186; and that the minimum charge made by the corporation was in breach of the by-law (No. 400, 26th September, 1904), which provided, among other things, that the company should "supply gas, at the prices hereinbefore mentioned, to the city corporation and to all inhabitants along such mains desiring to be supplied, upon such applicants tendering to the company a contract to pay the rates aforesaid."

The appeal was heard by MEREDITH, C.J.C.P., RIDDELL, LENNOX, and ROSE, JJ.

Christopher C. Robinson, for the appellant company.

F. R. Waddell, K.C., for the respondent corporation, was not called on.

THE COURT dismissed the appeal with costs.

* This case and all others so marked to be reported in the Ontario Law Reports.