

I think these authorities clearly establish that, at the date of the will in this case, the law did not permit the testatrix by will to do other than apportion or alter the apportionment of the insurance money, among those for whose benefit it was effected, while in this case it seems to me she has gone further and sought to vary the apportionment by converting an absolute into a contingent interest, and by apportioning the share of any child who should die before the period fixed for distribution among her grandchildren.

The order will therefore be that the applicant is now entitled to be paid the balance of his share. Costs of all parties out of the trust fund.

---

MARCH 8TH, 1909.

DIVISIONAL COURT.

RE O'NEILL AND DUNCAN LITHOGRAPHING CO.

*Master and Servant Act — Order of Police Magistrate for Payment of Wages — Right of Appeal to County Court Judge — Jurisdiction of Magistrate to Consider Defence of Failure of Consideration for Wages by Reason of Negligence of Servant — Jurisdiction of Judge on Appeal to Consider Same Defence — Prohibition.*

Appeal by O'Neill from order of TEETZEL, J., ante 511, dismissing with costs a motion for prohibition.

A. M. Lewis, Hamilton, for appellant.

E. F. Appelbe, Hamilton, for the company.

THE COURT (MULOCK, C.J., MAGEE, J., CLUTE, J.), dismissed the appeal without costs.

---

MARCH 8TH, 1909.

DIVISIONAL COURT.

GOODYEAR v. TORONTO AND YORK RADIAL R. W. CO.

*Street Railways — Injury to Person Crossing Track — Collision with Car — Negligence — Contributory Negligence — Findings of Jury.*

Appeal by defendants from judgment of MAGEE, J., in favour of plaintiff, upon the findings of a jury, for the re-