

The Ontario Weekly Notes

Vol. III.

TORONTO, MAY 29, 1912.

No. 37.

HIGH COURT OF JUSTICE.

MIDDLETON, J., IN CHAMBERS.

MAY 18TH, 1912.

RE HART.

Infant—Custody—Rights of Father—Welfare of Child—Evidence—Custody Awarded to Aunt.

Motion by John Hart, the father of the infant Blanche Emily Hart, upon the return of a writ of habeas corpus, for delivery of the infant to the applicant.

R. D. Moorehead, for John Hart.

T. A. Gibson, for Elizabeth Hyde-Powell, maternal aunt.

MIDDLETON, J.:—On the return of this motion it became quite apparent that it was impossible to determine the matter upon affidavit evidence; and the parties consented that I should hear oral evidence and summarily dispose of the case. I accordingly heard the parties and their witnesses. It was then consented to by counsel that I should ask Mr. Kelso, the Superintendent of the Children's Aid Society and of the Government Department having charge of neglected and dependent children, to make personal inquiry into the matter and report to me. This course was suggested by the fact that proceedings had already been had both in the Police Court and in the Juvenile Court concerning this child. The evidence taken before the Commissioner of the Juvenile Court was also put in before me.

In addition to this, I have had two interviews with the child; and, at the request of the father and with the consent of the aunt, have received verbal and written statements from the employers of Hart, respecting his habits and the charge made against him of intoxication.