

quite immaterial whether there was or was not an actual seizure by the Division Court Bailiff before the warrant of the landlord; in any case, the seizure by the landlord was illegal. But I see no sufficient ground for saying that the jury were wrong in finding as they did that the landlord's seizure was first. ,

No rent being due otherwise, it is plain that the seizure was wholly illegal.

In addition to the \$20 for board the plaintiff has been found entitled to the value of the goods, and also to special damages. The findings on both these heads are disputed; and it becomes necessary to examine the evidence.

First as to the value of the goods—it cannot be contended that the plaintiff is not entitled to their value. The goods seized on the first occasion were valued by the plaintiff at \$825. Of these the following do not seem to have been seized on the second occasion:—

Buckwheat .....	\$150 00
Wheat .....	98 35 \$248 35

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Balance .....	\$576 65
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But the following not seized on the first occasion were seized on the second (I give the values as fixed by the bailiff).

3 loads buckwheat in stook, \$15 .... \$591 65

This amount should be also diminished  
(as only 150 bushels of oats were seized instead of 200) by  $\frac{1}{4}$  of \$78 ..... \$ 19 50

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Valuation .....	\$572 15
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Upon that evidence, the jury were justified in finding the value \$522. No doubt the "fair value to the tenant," would be much more and that is the value to be allowed according to Parke, J., in *Knott v. Corley* (1832), 5 C. & P. 322.

There is no complaint as to the \$20 allowed for Smith's board.

In an action of this kind special damage may be recovered in addition to the value of the goods. *Bodley v. Reynolds*, 8 A. & E. N. S. 779; *Rielly v. McMinn* (1874), 15 N. B. R. 370.

The latter case says "In trespass for seizing and selling tools under an illegal distress the plaintiff may recover, not only the value of the goods distrained and sold, but also