

Court at Toronto. KELLY, J., in a written judgment, said that papers and documents were placed before the arbitrator without the knowledge of the applicant, whose attention was not drawn to them; and the arbitrator innocently misconceived the duties of an arbitrator and treated the matter before him as one for a compromise. Upon these grounds, without considering others, the learned Judge concluded that the award should be set aside with costs. Grayson Smith, for the applicants. Gordon Waldron, for Garfunkel, the respondent.

STEVENSON V. BROWN—CLUTE, J.—NOV. 17.

Fraud and Misrepresentation—Earnings of Mechanic Entrusted to Person Controlling Employer-companies—Promissory Note—Agreement—Tender of Shares in New Company.—The plaintiff, an expert jeweller-mechanic, sued the defendant, who owned or controlled the greater part of the stock of companies by which the plaintiff was employed for a period of 10 years, for \$3,891.50 and interest. The plaintiff alleged that he had left portions of his earnings, amounting to the sum claimed, in the hands of the defendant, who had promised him shares in the various companies formed by him, and that he (the plaintiff) had received nothing but a promissory note for \$2,500, signed by the defendant, dated the 10th August, 1914, which was subject to an agreement rendering it practically valueless. The action was tried without a jury at Toronto. CLUTE, J., in a written judgment, set forth the facts, and said that the defendant had tendered to the plaintiff 66 shares in a new company formed after the note was given. The learned Judge found all the facts in favour of the plaintiff. In regard to the new company, the learned Judge said that there were no qualified shareholders and no proper allotment of stock either to the defendant or the plaintiff; that the so-called paid-up stock was never in fact paid-up; that the assets which were said to be conveyed to the company formed but a small portion of the face-value of the capital stock issued or supposed to be issued. The company was a fraud upon the plaintiff and upon the public. The agreement which the plaintiff was induced to sign should be set aside. It was probable that \$2,500 did not represent in full the plaintiff's earnings of which the defendant possessed himself; but an accounting might be expensive. There should be judgment for the plaintiff for \$2,500 with costs; the plaintiff to be at liberty, if he so desires, to have a reference to the Master of all the dealings between the parties. T. P. Galt, K.C., for the plaintiff. C. W. Livingstone, for the defendant.