

the rent, were paid, not by the appellant, but by Jones and Ward—\$76.91 by the former and \$80.75 by the latter. It is also in evidence that the appellant and Matthews waited upon the council of Weston and sought to have the school exempted from taxation, but without success.

Accepting as true the testimony of the appellant that when he executed the lease he did not know of the arrangement that Matthews had made as to the payment of the taxes, and believed that the lease contained all the terms that had been agreed upon, the only possible inference to be drawn from the facts I have mentioned is, I think, that the appellant subsequently learned of the arrangement as to the taxes, and recognised that the lessees were bound to pay them, or, at all events, that Matthews was under that obligation; and, when the appellant took over the school, and, as Matthews testified, released him, the appellant became bound as between him and Matthews to pay the taxes, and probably, as between himself and the respondent, came under that obligation.

If it be the proper conclusion that as between the appellant and Matthews the appellant became liable to pay the taxes—and of course if the result of the transactions was that the appellant came under that obligation to the respondent—the appellant is not entitled to deduct the taxes from the rent. The statutory right of a tenant to deduct taxes paid by him from his rent exists only where, as between the landlord and the tenant, the landlord ought to pay them; and, in the circumstances of this case, it cannot be said that, as between his tenants and the respondent, the latter ought to have paid the taxes.

If the circumstances I have mentioned were absent, and the question were to be determined on the terms of the lease and the evidence as to the omission of a provision that the tenant should pay the taxes, I am of opinion that the appellant would fail. Matthews and he were the tenants under the lease, not the appellant alone; and, where there are more tenants than one, it is, in my opinion, sufficient to exclude the operation of the statute that, as between one of them and the landlord, that one ought to pay the taxes; in other words, that in such a case, applying the Interpretation Act, the section which gives the right to deduct the taxes applies only where none of the tenants is liable, but the landlord is liable, to pay the taxes.

A further difficulty in the way of the appellant's success is the fact that he did not pay the taxes of 1913.

Appeal dismissed with costs.