

behalf of and to bind the corporation in the kind of transaction or occurrence out of which the action arises, would, *prima facie*, be the proper officer to be examined in the first instance under Rule 439.

J. L. McCarthy, for the defendants, appellants. *O'Donoghue*, for the plaintiff, respondent.

Divisional Court.]

[Nov. 24, 1902.

TORONTO GENERAL TRUSTS CORPORATION v. WHITE.

Landlord and tenant—Valuation of buildings—Extension of time for making award—Interest.

By a lease made on the 1st of November, 1879, land was demised for a term of twenty-one years, and it was agreed that all the buildings on the land at the end of the term should be valued by valuers or arbitrators, and that the reference should be made and entered on and the award made within six months next preceding the 1st of November, 1900; and it was further agreed that within six months from that day the value of the buildings found by the arbitrators should be paid, with interest at the rate of seven per cent. per annum from that day, and that until paid it should be a charge on the land. By deed dated the 23rd October, 1900, the parties agreed that the time for making the award should be extended to the 1st December, 1901, and until such further day as the valuers or arbitrators might extend the same. The time was duly extended until the 30th November, 1901, on which day an award was made fixing the value of the buildings. Possession of the land and buildings was given up by the lessees to the lessors on the 31st October, 1900.

Held, OSLER, J.A., dubitante, that, supposing the extension of time and delay to have been agreed to for the convenience of both parties, and without the fault of either, the lessees were entitled to the interest on the value of the buildings from the 31st October, 1900, to the 30th November, 1901, for the first six months at seven per cent., and for the remainder of the time at the legal rate of five per cent.

Judgment of the Divisional Court, 38 C.L.J. 347; 3 O.L.R. 519, varied.

J. Bicknell, K.C., for appellants. *F. E. Hodgins*, K.C., for respondents.

HIGH COURT OF JUSTICE.

Trial of Actions. *Boyd, C.*]

[Nov. 17, 1902.

FARLEY v. SANSON.

Arbitration—Appointment of third arbitrator.

The lessee under a renewal of lease contended that he was not obliged to take a renewal, and wanted to have this point settled before