

Official Referee in a proceeding for the enforcement of mechanics' liens.

The appeal was heard by FALCONBRIDGE, C.J.K.B., RIDDELL, LATCHFORD, and KELLY, JJ.

T. Hislop, for the appellant.

J. P. MacGregor, for Shannon, a lien-holder, respondent.

G. N. Shaver, for the plaintiffs and for Tijon, a lien-holder, respondents.

KELLY, J., delivering the judgment of the Court, said that in May, 1914, the defendant Hartley entered into a contract with the appellant in respect of the erection of a house on lands of the appellant. Hartley proceeded with and continued in the performance of his contract until the 7th October, 1914, when, owing to disputes between him and the appellant, the latter's architect discharged him from the work. At that time, Hartley was indebted to a number of wage-earners for work done upon the contract; and six others claimed for work done and material supplied in the performance of the contract, all of whom in October caused liens to be filed against the property.

After a hearing on these claims before Mr. Roche, an Official Referee, he found that Hartley was primarily liable for the claims of these six claimants, aggregating \$1,113.50, and for the costs of the wage-earners and of the six claimants, aggregating \$301.10; that, by consent of all parties, the claims of the wage-earners, amounting to \$352.87, had been paid, apparently pending the proceedings; and that the other six claimants were entitled to liens upon the said lands for amounts shewn by the report, totalling \$1,113.50, and that they and the said wage-earners were also entitled to liens for the costs. The appeal was from these findings.

It was not disputed that the contract price of the work was \$3,850, and that the amount paid by the appellant to Hartley was \$2,940.33. After the dismissal of the contractor, the appellant proceeded to complete the building.

The matters now in dispute were: first, what should be allowed the contractor for extras; and, second, what was the amount to be properly allowed for completion of the building. While the Referee had not made specific findings on these two headings, the clear effect of the conclusion he had reached thereon was favourable to the contractor. Several somewhat substantial changes, alterations and additions to the work con-