

to pay an amount equal to the amount of rent claimed. So it was agreed at the close of the trial that the case was to be settled on payment of \$360 by the defendant to the plaintiff, without costs, but that the effect of the father's will, under which both claimed (construed in the light of the evidence in the case) should be determined by the Court.

The father made his will on the 16th January, 1869, and died on the last day of that month. The defendant and other members of the family do not appear to have known the terms of the will beyond a general understanding that the farm in question had been left to the plaintiff (the eldest son). The will was not admitted to probate, but was registered by the plaintiff on the land on the 30th November, 1871. The defendant first became aware of the terms of the will when he obtained a copy from the registry office on the 2nd October, 1907.

I believe the evidence of all the witnesses; there is really no hostile feeling between the parties, but the difficulty has arisen of late because of some younger relatives who are caring for the aged plaintiff.

The defendant was living with the father at his death on the farm, and so remained on the place for two years, taking the produce for his own use. The plaintiff, before the father's death, was living in the neighbourhood of Bowmanville, and has so remained till the present time. The farm is in the township of Plympton, in the county of Lambton.

The defendant contemplated getting married, and applied to the brother to get a lease of the farm, for that reason, in 1871, and the first lease was made to him on the 13th October, 1871, and he was married two months afterwards. After this, leases were made in succession for terms of years down to January, 1886. During the terms of the leases, rent was duly paid to the plaintiff according to the agreements.

When the defendant obtained a knowledge of the language of the will in 1907, he ceased paying rent as such, but rendered money or other payment equivalent thereto, and apparently no question arose between the brothers till later. There is no clear evidence of earlier payments, but particularity begins in November, 1911, when a payment of \$75 was made generally, and again on the 11th November, 1912, when \$60 was paid as "pocket-money."

The father's will gives the farm to the plaintiff, directing him to pay all debts and funeral expenses, with the proviso that "until he comes to reside" the sons David and Angus shall have