

2. The liability of a surety, on an illegal lease set aside for want of authority on the part of the party who signed the lease, is discharged, as suretyship can only be for the fulfilment of a valid obligation.

The judgment of the Superior Court, which is reversed, was rendered by Mr. Justice McEennen, on March 10th, 1916.

The action is on a lease by plaintiff to defendant company of room 611, on the sixth floor of the Drummond Building, Montreal, from October 1st, 1914 to May 1st 1915, at a yearly rental of \$322.50 payable monthly. The lease was signed as follow "Medicine Hat Syndicate Limited, J. R. Starnes", who was known as President of the company. The plaintiff claims \$161.22 for rent and damage up to the end of the lease. The action was also taken against Eaves, the other defendant, as surety for the lease.

The defence is that the company-defendant, never rented nor occupied said premises, nor authorized the said J. R. Starnes to sign any lease to plaintiff. Moreover, the defendant did not derive any benefit therefrom. It also alleges that the said defendant Eaves gave a letter of guarantee to plaintiff for and in the exclusive interest of said J. R. Starnes, and not for the benefit of the company-defendant.

The plaintiff answered that said J. R. Starnes represented himself, and was known to the public, as the manager of the company-defendant; and that it had every reason to believe that he was, in reality, its manager, owing to the actions of the said Syndicate, and had the right to sign the said lease.

The defendant Eaves contested the action, maintaining that he had agreed to be the surety for the company-de-