

cial contract in retaining commissions on amounts received by him in his capacity of solicitor.

W. B. A. Ritchie, K.C., for plaintiff. O'Connor, K.C., for defendant.

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Longley, J.] DOMINION COAL CO. v. McINNES. [Jan. 12.

*Overholding tenant—Notice and failure to appear—Proceeding ex parte—County Court judge—Jurisdiction—Order to review proceedings refused.*

Defendant, a workman in the employ of the plaintiff company occupied one of the plaintiffs' houses under a lease which provided that his tenancy should cease when he left the company's employ. Defendant left the employ of the company on strike July 6th, 1907, and proceedings were begun under the Overholding Tenants Act, R.S. (1900) c. 174, in September following, which resulted in an order in plaintiff's favour being made by the County Court judge for District No. 7. On application for an order requiring the judge of the County Court to send up his proceedings for review,

*Held*, 1. While the order under s. 6 of the Act is in the nature of a certiorari it must be regarded as a special provision for a specific purpose and it was not the intention that it should issue on mere application, but that the powers of review vested in the court should not be exercised unless upon reasonable and substantial grounds.

2. A variance between the lease and the notice, in the description of the location of the house was not an irregularity calling for review where the notice was served upon defendant in the house in which he was living and he could have no difficulty in knowing the premises meant.

3. Notice given when defendant had been overholding for some time was within the terms of the Act.

4. Where defendant refused to appear after notice the judge of the County Court had jurisdiction to proceed *ex parte*.

5. Plaintiff company did not lose its right to proceed under the Act by having permitted defendant to remain on the premises for some months after he had quit work.

W. B. A. Ritchie, K.C., in support of application. L. A. Lovett, contra.