

vessel that has infringed a regulation which is *prima facie* applicable to the case to prove, not only that such infringement did not but that it could not, by possibility, have contributed to the accident; but where the collision occurs in Canadian waters and the Act respecting the Navigation of Canadian waters (R.S.C., c. 79), and the regulations for the prevention of collisions made by the Governor-General in Council are in force, the vessel which contravenes one of them will not be held to be in fault unless such contravention has contributed to the collision: *The Cuba v. McMillan*, 26 S.C.R. 661.

L. P. Pelletier, K.C., *A. H. Cook*, K.C., and *F. Meredith*, K.C., for appellants (defendants). *C. Pentland*, K.C., and *A. R. Angers*, K.C., for respondents (plaintiffs).

Province of Ontario.

COURT OF APPEAL.

From Boyd, C.]

[April 14.

CANADIAN PACIFIC R.W. CO. *v.* CITY OF TORONTO.

Landlord and tenant—Railway company—City lease—Usual covenants—Covenants to pay taxes and repair—Right of re-entry—Rent in arrear—Interest on.

An agreement made between the City of Toronto and the Canadian Pacific R.W. Co. provided, amongst other things, for a lease renewable in perpetuity, in successive terms of fifty years at an agreed rent, payable on named days, nothing being said about covenants.

Held, that the agreement was not self-contained, but that the execution of a formal lease was contemplated, which should contain the usual covenants, and that covenants to pay taxes, and for the right of re-entry for non-payment of rent or taxes, were, under the circumstances here, usual covenants.

Where by the agreement, a time was fixed for the commencement of the lease, and the railway company entered into possession, and had the enjoyment of the demised premises, but the title was not settled until some time afterwards, interest on arrears of rent which accrued due in the meantime, was allowed.

Judgment of BOYD, C., reversed in part.

Armour, K.C., and *McMurchy*, for plaintiffs. *Robinson*, K.C., and *Fullerton*, K.C., for defendants.