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MAY 10TH, 1907.

DIVISIONAL COURT.

HACKETT v. TORONTO R. W. CO.

*Street Railways—Injury to Person Crossing Track—Negligence—Contributory Negligence—Findings of Jury—Infant—Dismissal of Action.*

Appeal by defendants from judgment of FALCONBRIDGE, C.J., in favour of plaintiff, upon the findings of a jury, for the recovery of \$1,225.

The action was brought on behalf of Gordon F. Hackett, an infant, by William J. Hackett, his father and next friend. On 3rd July, 1906, Gordon F. Hackett was stealing a ride on one of the cars of defendants, sitting upon the bar behind the car, which was going in an easterly direction on Gerrard street. When the boy had got to his destination, he jumped off the bar, but continued running with the car, being carried by the impetus of it. Without looking he attempted to cross the tracks towards the north part of the street, when a west-bound car, going in an opposite direction to the one he had just got off, passed the east-bound car, and in collision with it the boy lost a leg.

The following were the questions put to the jury and their answers:—

1. Was the injury to the plaintiff Gordon Hackett caused by any negligence or unlawful act of the defendants?  
A. Yes.

2. If so, wherein did such negligence or unlawful act consist? A. By conductor on east-bound car not being on