

whereabouts, if he is still alive, had failed to produce results, It will be referred back to the Master to make further enquiries about him.

HON. SIR G. FALCONBRIDGE, C.J.K.B. MARCH 30TH, 1914.

ATTENBOROUGH v. WALLER.

6 O. W. N. 171.

Landlord and Tenant—Alleged Conversion of Chattels—Short Forms of Leases Act 10 Edw. VII. c. 54, sch. B., cl. 10—Removal of Fixtures—Costs—Set-off.

FALCONBRIDGE, C.J.K.B., in an action for damages for alleged wrongful detention of chattels gave judgment for plaintiff for \$50 with Division Court costs, defendant to have set-off on the Supreme Court scale.

Action to recover \$870 for contents of garage, goods, chattels, effects and building material, and \$100 damages for deprivation, detention and use of goods, upon premises owned by the defendant.

Tried in Toronto.

R. Holmes, for plaintiff.

W. G. Thurston, K.C., for defendant.

HON. SIR GLENHOLME FALCONBRIDGE, C.J.K.B.:—The facts are set out in the statement of defence, which I find to have been proved.

Even if defendant had accepted or recognised plaintiff as his tenant, which he never did, the provision "that the lessee may remove his fixtures" means (10 Edw. VII. ch. 54, cl. 10 of the schedule, now R. S. O. 1914, ch. 116) that "the lessee may at or prior to the expiration of the term hereby granted, take, remove and carry away"

Defendant has always been willing to give up the electric sign on plaintiff proving it to be his property. This the defendant by his own memo. (Ex. 1) valued at \$50.

Judgment for plaintiff for \$50 with Division Court costs; defendant to have set-off of costs as provided by Rule 649.

Execution whichever way the excess may lie.

Thirty days' stay.