

and are entertained on special contract, it may be a boarding house; and in respect of transient persons who without a stipulated contract made from day to day, it is an inn."

Now I find as a fact that the defendant on the very day of his arrival made a special contract or agreement with the plaintiff to board and lodge at his hotel at the special rate of \$1 per day; he expected to stay during the sawing season of 1913 and did stay over ten months. True, the agreement was conditional on his staying at least two months to obtain the special rate of \$1 per day, but as soon as the two months expired, the special contract went into effect, and even if he had been a guest up to that time, the relation of guest then terminated by him becoming a permanent boarder.

Mh. MacGillivray refers to an American case of *Hannock v. Rand*, 94 N.Y.L., 46 Am. Rep.: "Where an army officer made a special bargain with the innkeeper" and it was held, that the defendant received him as a guest and not as a permanent boarder, but in my opinion that decision does not apply, as it was held in that case that "persons belonging to the army or navy who have no permanent residence they can call home, are to be regarded as travellers when stopping at public inns."

The defendant does not appear to have any doubt but what he was a regular boarder and not a guest.

Then as to the liability of the plaintiff to the defendant as a boarder. "The rule appears to be that he is required to take as much care of the goods of his boarder or lodger as a reasonably prudent man would take care of his own, and is liable only for any loss thereof occurring through the negligence of himself or his servants."

The leading English authorities on this point which is clearly established by them, are *Holder v. Saulby*, 29 L.J.C.P. 246, and *Dansey v. Richardson*, 23 L.J.Q.B. 217.

In *Warner v. Cameron*, 19 W.L.R. 461, an Alberta action recently decided by Judge Taylor, of Edmonton: "Where the plaintiff, a weekly boarder at the defendant's hotel, had made arrangements with the defendant's clerk by which whenever he was absent for a night his room might be occupied by some other person, if required, be held that the defendant was not liable for the loss of the plaintiff's luggage, which he left in his room during one of his absences, the evidence not shewing gross negligence on the part of the defendant. He was also of the opinion that the plaintiff did not use the ordinary care required of him by leaving his goods exposed in his room.