

Then it was said that the award was bad because it contemplated crossing the Grand Trunk Railway, and no permission had been obtained from the Dominion Board of Railway Commissioners. All that sec. 251 of the Railway Act requires is, that the consent of the Board be obtained before the work is actually done on the land of the railway company.

In all aspects of the case, the appeal failed, and must be dismissed.

MEREDITH, C.J.C.P., reached the same result, for reasons fully stated in writing.

LENNOX and ROSE, JJ., agreed that the appeal should be dismissed.

Appeal dismissed with costs.

SECOND DIVISIONAL COURT.

OCTOBER 12TH, 1917.

*RE MITCHELL AND FRASER.

Landlord and Tenant—Landlord and Tenant Act, Part III.—Provisions respecting Overholding Tenants—Summary Ejectment Procedure—Application to Case of Mortgagee and Mortgagor—"Person"—"May"—Interpretation Act, sec. 29 (s).

Appeal by Donald Fraser, tenant, from an order of the Judge of the County Court of the County of Carleton, under Part III. (Overholding Tenants) of the Landlord and Tenant Act, R.S.O. 1914 ch. 155, directing the issue of a writ of possession to put the landlord in possession of demised premises.

The appeal was heard by MEREDITH, C.J.C.P., MIDDLETON, LENNOX, and ROSE, JJ.

J. E. Jones, for the appellant.

H. M. Mowat, K.C., for the landlord, respondent.

MEREDITH, C.J.C.P., read a judgment in which he said that the respondent had, in summary proceedings, before a Judge of a County Court, under legislation respecting "overholding tenants," obtained an order for a writ of possession of the land in question, although the only relationship between him and the appellants was that of one of several mortgagees and the mortgagor; and this appeal was against that order, on the ground that the Judge had no power to make it because the case was not one which came within the legislation.