

He was not giving effect to this as *res judicata*, as the Board is not a Court, and its function under sec. 145 is to approve or withhold its approval of the tenant's action. It had approved, and this enabled the tenant to give an effective notice if he was otherwise entitled to do so as a matter of law. The Board had no jurisdiction to determine this question.

The action failed and must be dismissed with costs.

McILMURRAY v. TORONTO AND YORK RADIAL R.W.CO.—
MIDDLETON, J.—OCT. 5.

Damages—Personal Injuries—Pain and Suffering—Loss of Earnings—Expenses—Disablement for Future—Indemnity—Assessment of Damages by Trial Judge.—Action for damages for personal injuries sustained by the plaintiff in a head-on collision between cars operated by the defendants, in one of which he was a passenger. The action was tried without a jury at a Toronto sittings. MIDDLETON, J., in a written judgment, said that, as the result of the collision, a piece of wood was driven through the calf of the plaintiff's left leg in a downward direction, and another injury of a less serious character was inflicted lower on the same leg. The greater portion of the muscles of the calf had to be removed. There was no question of the plaintiff's right to recover; the amount of damages was the sole question. At the trial counsel for the plaintiff earnestly pressed for \$10,000. The plaintiff had suffered great pain; he lost three months' earnings, was for three months under a serious handicap, and was to some extent disabled for the future. His out-of-pocket expenses and some small allowance for domestic disorganisation and the services of his wife as nurse would be covered by the sum of \$1,000. The outlook for the future was very serious. Weighing all the matters mentioned and other considerations presented by counsel, and realising that no blame could be attributed to the plaintiff, the learned Judge felt it his duty to award a sum which would be in some degree an indemnity. The damages should be assessed at \$6,000. Judgment for the plaintiff for that sum with costs. T. N. Phelan, for the plaintiff. T. H. Lennox, K.C., and W. Lawr, for the defendants.