

\$222 and interest, made by defendant, dated 16th January, 1894, to the order of Thomas C. Barton, plaintiff's testator.

The defences were the Statute of Limitations and payment.

The appeal was heard by FALCONBRIDGE, C.J., STREET, J., BRITTON, J.

Allan Cassels, for plaintiff.

E. M. Young, Picton, for defendant.

STREET, J.—I am of opinion that we should not disturb the judgment appealed from. The deceased Thomas C. Barton was mortgagee of a lease as collateral security for the payment of the note sued on, and notified the tenant that the rent must be paid to him, and not to the original lessor, defendant. There is evidence that the rent due on 1st November, 1894, was in fact paid to the payee of the note by the tenant, and whether further payment was made by the tenant, or whether further rent which might have been had for the asking was lost because it was not asked for by the creditor, the creditor is chargeable with it under *Synod v. DeBlaquiere*, 27 Gr. 549, and the authorities referred to.

Appeal dismissed with costs.

BRITTON, J., gave reasons in writing for coming, with some hesitation, to the same conclusion.

FALCONBRIDGE, C.J., concurred.

CARTWRIGHT, MASTER.

NOVEMBER 18TH, 1904.

CHAMBERS.

MOSHER v. MOSHER.

Alimony—Interim Order—Disbursements—Foreign Defendant—No Assets in Jurisdiction—Provision for Wife.

Motion by plaintiff for interim alimony and disbursements.

D. L. McCarthy, for plaintiff.

W. J. Boland, for defendant.

THE MASTER.—Plaintiff admits having received from defendant \$1,350 in October, 1903, also \$50 a month down to and including June last. She admits she has still \$600 left. This was on 27th October. She was paying \$6 a week for room and board. There are no children. Plaintiff, by