

DIVISIONAL COURT.

FEBRUARY 21ST, 1911.

*McCUAIG v. LALONDE.

Landlord and Tenant—Lease of Dwelling-house—Implied Obligation not to Use for Different Purpose—Use as Hospital—Infectious Disease—Damages—Injury to Reversion—Estimation of—Evidence.

Appeal by the plaintiff from the judgment of the Judge of the County Court of Stormont, Dundas, and Glengarry, dismissing the action.

The defendant was a hotel-keeper; his children taking diphtheria, he was informed by the Medical Health Officer that, unless they were removed from the hotel, it must be placarded. As the defendant was making from \$25 to \$40 a day, he did not like the idea of his hotel being in effect closed; so he went to the plaintiff, who had a small dwelling-house to let, and took the house at \$8 per month rent. He gave the plaintiff to understand that the reason for his wanting the house was that his wife was near her confinement, and he wanted the house to enable her to be confined outside the hotel. The children were taken into the house; and in fifteen minutes thereafter the house was placarded. After the children had recovered, the defendant fumigated the house, but not efficiently. The plaintiff thought that, before renting the house again, she should repaper it, etc., and did so. There was natural delay in renting the house after that also.

The action was to recover damages for the injury to the house and the plaintiff's loss thereby.

The appeal was heard by BOYD, C., RIDDELL and MIDDLETON, JJ.

C. H. Cline, for the plaintiff.

G. I. Gogo, for the defendant.

RIDDELL, J.:— . . . The law is correctly laid down in 24 Cyc. 1061: "Where the contract of lease is silent on the subject, the lessee has by implication the right to put the premises to such use and employment as he pleases, not materially different from that in which they are usually employed, to

*To be reported in the Ontario Law Reports.