

The  
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APPELLATE DIVISION.

SECOND DIVISIONAL COURT.

DECEMBER 20TH, 1915.

\*McBRIDE v. IRESON.

*Landlord and Tenant—Action for Rent—Dispute as to Duration of Lease—Evidence—Finding of Fact of Trial Judge—Reversal on Appeal—Failure of Trial Judge to Consider Portions of Evidence—Surrender—Evidence—Intention—Acceptance.*

Appeal by the plaintiff from the judgment of DENTON, Jun. Co. C.J., dismissing without costs an action, brought in the County Court of the County of York, by a mesne tenant against his subtenant, to recover a sum of money as rent.

The appeal was heard by FALCONBRIDGE, C.J.K.B., RIDDELL, LATCHFORD, and KELLY, JJ.

H. M. Mowat, K.C., for the appellant.

S. W. Burns, for the defendant, respondent.

RIDDELL, J., delivering the judgment of the Court, said that the plaintiff, being about to rent a large building from one Greey, entered into negotiations with the defendant to let to him three storeys of it. The plaintiff asserted that it was agreed that the defendant should become his tenant for 6 months certain; the defendant contended that his tenancy was from month to month.

The County Court Judge did not discredit either party; but, on the whole case, he was "unable to find as a fact that the defendant at any time actually obligated himself to take the premises for 6 months."

Both parties expected the defendant to become the plaintiff's

\*This case and all others so marked to be reported in the Ontario Law Reports.