

facts were fully set out in the affidavits and papers filed; and, he being of the opinion that the defendant was wrong in his contention, the proper thing was to treat this motion as a motion for judgment; and he therefore gave judgment restraining the defendant from proceeding with the distress and sale of the goods and chattels of the tenant; the defendant to withdraw from seizure, and all the goods and chattels seized as the goods and chattels of Goodbrand to be delivered by the defendant to the plaintiff—to be dealt with by the plaintiff as assignee for the benefit of creditors of Goodbrand. As the plaintiff was willing to concede to the defendant his right to priority to the extent of one year's rent, that is, for 1915, being for rent which fell due on the 1st October, 1915, and which would, had there been no seizure, and no alleged breach of the covenants contained in the lease, fall due on the 31st December, 1915, the plaintiff should recognise the defendant's claim to the extent of one year's rent, in priority to the claim or claims of creditors; but this to be without prejudice to any claim the defendant might establish for damages by reason of any alleged breach of covenants in the lease—such claims, if established, not to have priority, but to be claims to rank pro rata with other unsecured claims against the Goodbrand estate. The defendant should pay costs of these proceedings, fixed at \$50, including costs of the action and motions. The plaintiff should pay to the defendant, out of the proceeds of the sale of Goodbrand's goods and chattels, the sum of \$600, in priority to payment of any amount to unsecured creditors. E. H. Cleaver, for the plaintiff. G. T. Walsh, for the defendant.