

be in accordance with the terms of the application" for 12 months—statutory condition 8—unless the company take the prescribed precaution. The interim receipt is, by the combined effect of sub-secs. 45 and 14 of sec. 2, a "policy;" the defendants did not point out in writing the particulars wherein it differed from the application; and the effect of the statute was to make this a binding policy for 12 months.

The decision of the Supreme Court of Canada in *Dominion Grange Mutual Fire Insurance Association v. Bradt* (1895), 25 S.C.R. 154, prevents this Court from giving any advantage to the defendants from the terms of the interim receipt.

The subsequent conduct of Corbold, the defendants' Toronto manager, has not been taken into consideration in this judgment; it does not assist, but weakens, the case of the defendants.

The appeal should be dismissed.

ROSE, J., reached the same result, for reasons stated in writing.

LENNOX, J., agreed that the appeal should be dismissed.

Appeal dismissed with costs.

SECOND DIVISIONAL COURT.

APRIL 13TH, 1917.

*RE WATSON AND MONAHAN.

Mines and Mining—Mining Claim—Staking out—Failure to Do Second Year's Work—Order of Mining Commissioner Relieving from Default—Mining Act of Ontario, R.S.O. 1914 ch. 32, sec. 85 (4 Geo. V. ch. 14, sec. 4)—Jurisdiction of Commissioner—“Prevented”—“Other Good Cause Shewn”—Right of Appeal—“Decision” of Commissioner—Sec. 151 of Act.

J. Craig Watson staked out two mining claims in a surveyed township. He did the first year's work as required by the Mining Act of Ontario, R.S.O. 1914 ch. 32, but failed to do the second year's work. Thereupon Walter Monahan (making, it was said, a new discovery) restaked the claim. Watson applied to the Mining Commissioner for reinstatement, under sec. 85 of the Act; the Commissioner granted the request; and Monahan now appealed.