

SUPREME COURT OF ONTARIO.

FIRST APPELLATE DIVISION.

NOVEMBER 5TH, 1913.

RE IRWIN AND CAMPBELL.

5 O. W. N. 229.

*Arbitration and Award—Provision in Lease—Award or Valuation—
Right to Appeal.*

MIDDLETON, J., 24 O. W. R. 896; 4 O. W. N. 1562, *held*, that there was no appeal from a decision of three valuers under a clause in a lease, it being a valuation not an award.

Re Irwin, Hawken & Ramsay, 24 O. W. R. 878; 4 O. W. N. 1562, followed.

SUP. CT. ONT. (1st App. Div.) affirmed above judgment.

Appeal by the trustees of the Irwin estate from an order of HON. MR. JUSTICE MIDDLETON, 24 O. W. R. 896; 4 O. W. N. 1562.

The appeal to the Supreme Court of Ontario (First Appellate Division) was heard by HON. SIR WM. MEREDITH, C.J.O., HON. MR. JUSTICE MACLAREN, HON. MR. JUSTICE MAGEE and HON. MR. JUSTICE HODGINS.

W. N. Ferguson, K.C., for the appellants.

N. W. Rowell, K.C., and George Kerr, for Campbell.

THEIR LORDSHIPS' judgment was delivered *v. v.* dismissing the appeal without prejudice to the rights of the appellants in pending litigation. Their Lordships agreed with the decision of Hon. Mr. Justice Middleton, which followed that of Hon. Sir Glenholme Falconbridge, C.J.K.B. in *Re Irwin, Hawken, and Ramsay*, 24 O. W. R. 878; 4 O. W. N. 1562.