

1907—when the breach occurred—there had been an increase in the rental value of property in Ottawa. It further shews that, in order to obtain the increased rental which he has secured, the defendant divided his premises and spent upon them considerably more money than would have been necessary to put them in repair for the plaintiff. He also leased a portion of the premises to the proprietor of a theatorium. Tenants of this class pay exceptionally high rents. Now, it was a condition of Jarvas's lease that he should not assign or sublet without leave. He, therefore, could not have done with the premises what the defendant has been able to do. Yet I do not think that the whole increase in the rental obtained is due to the additional expenditure made by the landlord, or to the manner in which, or for the purpose for which, he has let his building. I must find upon the evidence that there was some increase in actual rental value between the date of the making of the agreement and the date of the breach, and to that increase the plaintiff is, in my opinion, entitled by way of damages. There is nothing to indicate that the rental agreed upon was not the actual rental value of the premises at the time when the agreement for lease was made. I think I may fairly assume that it was. Acting as a jury, I find that the increase in rental value had been at the rate of \$10 per month, and that the premises are now worth and are likely to be worth during the entire term \$10 per month more than the rental agreed upon between the plaintiff and defendant. I therefore assess the plaintiff's damages at \$580. There will accordingly be judgment for him for this sum, with costs, and the defendant's counterclaim will be dismissed, also with costs.