

or may be wanting, and yet the kind of belief required for this defence exist.

I think the appeal should be dismissed with costs.

FALCONBRIDGE, C.J.K.B., concurred.

LATCHFORD and KELLY, JJ., agreed in the result.

Appeal dismissed with costs.

HIGH COURT DIVISION.

LENNOX, J.

FEBRUARY 15TH, 1915.

HARRIS v. TOWNSEND.

Principal and Agent—Agent's Commissions on Sales of Company-shares—Evidence—Agreement—Percentage Rate—Commissions on Sales in Agent's Territory—Account—Reference.

Action for commissions on the sale of shares of the stock of a mining company, and for an account.

The action was tried without a jury at Barrie.

A. E. H. Creswicke, K.C., for the plaintiff.

M. K. Cowan, K.C., and J. T. Muleahy, for the defendant.

LENNOX, J.:— . . . I accept the plaintiff's evidence in preference to the defendant's where they conflict.

The plaintiff is a mining prospector, and was living in Atherley, in the neighbourhood of the town of Orillia, where the defendant desired and expected to sell mining stock, in 1910. The defendant was deeply interested in the success of the Golden Rose mine; he was the president of the company controlling it, and held a great deal of the stock. The plaintiff, as a local authority upon mining questions and likely to have some weight with people of Orillia and its vicinity, was employed by the defendant from about the end of October, 1910, to report to possible purchasers of stock his opinion—founded upon actual investigation as an expert—of the condition and prospects of the Golden Rose mine, and to make or bring about sales of the defendant's stock.