

STOYANOFF v. DIMITROFF—KELLY, J.—JULY 14.

*Contract—Money Placed in Hands of Defendant to Remit to Bank in Foreign Country to be Placed at Credit of Plaintiff—Conflict of Evidence as to Method of [Remitting—Corroboration—United States Currency—Rate of Exchange—Finding in Favour of Plaintiff.]*—The plaintiff commenced this action on the 27th December, 1919, by the issue of a writ of summons endorsed with a claim for \$1,152.50, "being the amount of moneys entrusted by the plaintiff to the defendant to remit to Bulgaria, which the defendant has failed to do." The amount was made up of "cash advanced to be remitted, \$1,100," and "exchange paid on the same, \$52.50." Apparently, when the writ was issued the plaintiff had not received advice that any moneys had reached Bulgaria; but, some time after the issue of the writ, he was advised by the defendant that the bank-book shewing his deposit in the Bulgarian National Bank had arrived. The plaintiff refused to accept the bank-book, alleging that the amount credited therein did not represent the amount procurable by the money which he had given to the defendant on the 6th October, 1919, to forward to the bank in Bulgaria. The action was tried without a jury at a Toronto sittings. KELLY, J., in a written judgment, said that the plaintiff's evidence, standing alone, against the defendant's evidence, could not safely be taken as establishing his claim; but there were several incontrovertible circumstances which corroborated the plaintiff's testimony and substantially supported his contention. The point of difference between the parties was, that the plaintiff said that he gave the defendant \$1,100 on the 6th October, 1919, to be sent, in United States currency, to the bank in Bulgaria, to be placed to the plaintiff's credit there, and also paid exchange thereon at the rate then current for United States currency; while the defendant said that the money was given to him to purchase in Toronto a definite number of Levs for transmission to the bank in Bulgaria. Owing to the rapid fluctuations in the rate of exchange at the time, the latter method of transmission was to the disadvantage of the plaintiff to the extent of several thousand Levs. The defendant did not remit the money in United States currency, but, without the knowledge of the plaintiff, purchased, on the 7th October, a draft in drachmas, payable at Salonika, part of which went to purchase 27,500 Levs for the plaintiff, and of the balance part was retained by the defendant for his benefit and placed to his credit in Bulgaria and part went to the defendant's agent there. The plaintiff was entitled to succeed to the extent of the difference between the amount required to purchase 27,500 Levs in Bulgaria at the time of the arrival of the money there,