

months from the 1st September, 1912, at a rental, "yearly and for every year during the said term, . . . of \$2,700 . . . payable . . . in even portions monthly of . . . \$225 . . . each; the first of such payments to . . . be made on the 1st day of October, 1912." The defendants entered into possession and remained in occupation during the term. When the term was up, on the 1st March, 1914, the defendants, having paid rent according to the lease, continued on in possession, and paid (expressly as rent) \$225 on the last day of each month from March to October, 1914, and on the 28th November, 1914. The defendants, having obtained other premises, and assuming that they were monthly tenants, on the 20th October, 1914, served notice of delivering up possession, and went out of possession before the end of November.

If the tenancy was a monthly tenancy, the notice was admittedly sufficient; but the plaintiff set up that the tenancy was from year to year; and on the 13th January, 1915, began this action to recover \$225 for the rent due on the 1st January, 1915.

The District Court Judge held that a tenancy from year to year had been created, and gave judgment for the plaintiff.

The defendants' appeal was heard by FALCONBRIDGE, C.J. K.B., HODGINS, J.A., RIDDELL and LATCHFORD, JJ.

C. A. Masten, K.C., for the appellants.

W. N. Tilley, for the plaintiff, respondent.

RIDDELL, J., delivering the judgment of the Court, said that it was contended that, under the facts, no implication of tenancy from year to year could arise, even if the tenant were not a corporation. Upon this point reference was made to Woodfall's Landlord and Tenant, 19th ed., p. 257; *Bishop v. Howard* (1823), 2 B. & C. 100; *Hyatt v. Griffiths* (1851), 17 Q.B. 505; *Thetford (Mayor of) v. Tyler* (1845), 8 Q.B. 95; *Idington v. Douglas* (1903), 6 O.L.R. 266; *St. George Mansions v. King* (1910), 1 O.W.N. 501, 15 O.W.R. 427; *Roe dem. Brune v. Priedeaux* (1808), 10 East 158, 187, where Lord Ellenborough says that the receipt of rent is evidence to be left to a jury that a tenancy was subsisting; and, if no other tenancy appear, the presumption is that that tenancy was from year to year. Here no other tenancy was made to appear, and the presumption was not met.

The other point raised was, that a corporation cannot be held liable as a tenant from year to year; and the cases relied on were *Finlay v. Bristol and Exeter R.W. Co.* (1852), 7 Ex. 409, and