

a week. The evidence completely failed to support any charge entitling the plaintiff to alimony. The defendant was not guilty of cruelty causing danger or reasonable ground for apprehending danger to the plaintiff's person or health. It was clearly not a case where alimony could legally be granted. The action should be dismissed. The plaintiff should have only such costs as are provided by Rule 388. William Proudfoot jun., for the plaintiff. D. B. Goodman, for the defendant.

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ROSS V. GAVIN—KELLY, J.—FEB. 20.

*Landlord and Tenant—Tenant Continuing to Occupy Demised Premises after Expiry of Lease—Terms of Occupancy—New Agreement for Lease—Claim for Arrears of Rent—Claim for Use and Occupation of other Premises—Findings of Fact of Trial Judge—Dismissal of Landlord's Action.*—The plaintiff owned a store in Fort William, of which the defendant was the occupant from 1906 until the 14th April, 1919, as the plaintiff's tenant. On the 14th November, 1912, the plaintiff made a written lease to the defendant for 5 years, beginning on the 15th April, 1913, at a rental, payable monthly, of \$1,980 a year for the 1st and 2nd years, \$2,100 a year for the 3rd and 4th years, and \$2,220 for the 5th year. At the end of that term the defendant continued to occupy the premises until the 14th April, 1919. The plaintiff, in his pleading in this action, set up that, on the expiration of the 5-year lease, the defendant continued as a yearly tenant at a yearly rental of \$2,220; and further alleged that in December, 1918, he and the defendant entered into an agreement for a further lease for 2 years from the 15th April, 1919, at a yearly rental of \$1,620; and he claimed: (1) a declaration that a valid lease was entered into for the further term of two years, or that the defendant had been, since the 15th April, 1919, a yearly tenant at a yearly rental of \$2,220; (2) payment of \$1,630 as rent in arrear under the lease of November, 1912; and (3) \$220 for use and occupation of another store for a period of 11 months. The action was tried without a jury at Port Arthur. KELLY, J., in a written judgment, said that the issues were mainly, if not altogether, issues of fact; and he had no difficulty in finding the essential facts in the defendant's favour. After a review of the evidence, he found that the plaintiff had failed to establish any of his claims. Action dismissed with costs. R. J. Byrnes, for the plaintiff. W. A. Dowler, K.C., for the defendant.