

beneficiaries in the 5th paragraph mentioned. A. R. Hassard, for the plaintiff. E. F. B. Johnston, K.C., for the defendants the ex-ecutrices. I. F. Hellmuth, K.C., for the defendants James and Michael Meagher. E. D. Armour, K.C., and A. F. Lobb, for the defendants Thomas and John Meagher. E. C. Cattnach, for the Official Guardian.

MILES V. CONSTABLE—KELLY, J.—MAY 15.

Landlord and Tenant—Flooding of Demised Premises—Knowledge of Landlord—Concealment of Defect—Knowledge of Purpose for which Premises Leased—Liability in Damages—Assessment of Damages—Counterclaim.]—Action for damages for flooding of premises in the city of Toronto leased by the defendants to the plaintiff for the purpose of a bake-shop. The plaintiff was prevented by the flooding from carrying on his business. KELLY, J., found that the premises had turned out to be totally unfit for the purpose for which they were built and for which the plaintiff required them. The defendants contended that the source of the trouble was a defect in the city sewer, and that the plaintiff's remedy was against the city corporation. The learned Judge said that, assuming that a defective sewer was the cause of the trouble, the defendants were not entitled to be relieved on that ground, because they knew of the condition at the time they made the lease and withheld that knowledge from the plaintiff, knowing the purpose for which he leased the premises. Upon all the evidence, the learned Judge found for the plaintiff, and assessed his damages for injury to and loss of goods at \$200, and for loss of and disturbance to business and for being deprived of the use of the premises down to the commencement of the action at \$920: in all \$1,120. The defendants were allowed \$213.33 on their counterclaim for rent, etc., to be deducted from the \$1,120; and judgment to be entered for the plaintiff for \$906.67 with costs. T. F. Slattery, for the plaintiff. H. A. Reesor, for the defendants.