

VIOLATION OF LEASE CLOSES TRANSACTION

Lessee Released From Rent Due After Eviction.

SEVERAL DECISIONS CITED

Chairman of Legal Committee of Portland Realty Board Deals With Pertinent Question.

BY W. R. SHIVELY, Chairman legal committee Portland Realty Board.

Where a tenant, occupying premises leased by him for a period of years, is evicted from the leased premises before the expiration of the lease for non-payment of rent, may the landlord hold the tenant responsible for rents thereafter accruing under the terms of the lease?

The supreme court of the state of Oregon has held that after an eviction has taken place the right of the landlord to collect subsequently accruing rent is terminated in the cases of Moulton vs. Parkhurst, 13 Pac. 589; Northern Brewery company vs. Princess hotel, 78 Or., 453, 153 Pac. 37; Gearin vs. Rothchild Bros., 88 Or., 402, 176 Pac. 223; Yuen Suey vs. Fishman, 65 Or., 606, 123 Pac. 302.

In the Yuen Suey case above cited the tenant held a 20-year lease upon a certain building, and at the expiration of the premises for about one year he failed to pay the rent prescribed in the lease for a period of two months.

The lease contained a provision that in the event of the non-payment of rent the landlord might re-enter the building and declare the lease terminated and forfeited. Under such a provision the landlord brought an action of ejectment against the tenant and secured possession of the premises. In speaking of the liability of the tenant to pay rent after such an eviction, our supreme court said:

"This effectively terminated the tenancy and exonerated the lessee from all liability for rent not due at the time of such ouster."

Hotel Case Cited.

In the Princess hotel case the tenant entered into an eight-year lease of a certain hotel building and to secure the payment of the rent gave a chattel mortgage upon all the furniture, etc., used in connection with the hotel. On a certain date the tenant was in arrears in the payment of rent to the extent of \$3000, whereupon the landlord, or rather a receiver representing the landlord's interests, took over the possession of the hotel and ousted the tenant.

During certain litigation which then ensued, additional amounts accrued to the extent of \$2000, making the total arrears of rent amount to \$5000. At this time the chattel mortgage given as security was foreclosed and the furniture, etc., sold for \$5000, which the landlord endeavored to apply to the wiping out of the rental arrears. This the court refused to permit, holding that the tenant, having been evicted, no charge for rent subsequently accruing could be legally impressed by the receiver upon the property described in the chattel mortgage so as to augment the amount due when the eviction took place, and holding that the sum of \$3000, due at the time of the all that the landlord could recover.

In Alford vs. Banfield, 85 Or., 49, 166 Pac. 448, the same rule was applied to a case where the tenant voluntarily surrendered the leased premises and the landlord accepted same. In this case the court said:

"When the relations of landlord and tenant are at an end and the lessee has surrendered the premises and the landlord accepted the same and thus put an end to the lease so far as the rights of the parties to it are concerned, all covenants therein in favor of either party are at once terminated, where no cause of action has accrued or matured during the life of the lease."

In the absence of express covenants to the contrary a landlord, after accepting a surrender of the premises, has no cause of action for damages against his former tenant by reason of diminished rent paid thereafter.

Authority Sustains Decision.

In commenting upon this rule of law our supreme court, in the recent case of Moulton vs. Parkhurst, above cited, said that the doctrine "is sustained by the weight of authority." With reference to the case of Gearin vs. Rothchild Bros., above cited, our supreme court held it to be fundamental that "nothing but a surrender, a release or an eviction can, in whole or in part, absolve the tenant from the obligation of his covenant to pay rent."

The foregoing should be of special interest to those landlords whose tenants have given security for prompt rental payments. In such cases, if the landlord evicts the tenant for non-payment of rent, he will not usually be permitted to reimburse himself out of the security for rents accruing after eviction. All rents which have become due at the time of the ouster he may retain, the balance he must pay over or account for to the tenant. Cases showing the extent of the landlord's interest in such deposits of security will be presented in the next report.

HOME DEMAND HOLDS STRONG

Dealer Predicts More Acreage and Farms Will Be Wanted.

"Despite the prediction after the armistice was signed that the demand for homes would slacken, Fred W. Gorman, Portland realtor, declares that buyers are as numerous as ever. He anticipates an exceptionally heavy demand for acreage and farms. The Fred W. Gorman company has made the following sales since January 22: Mr. and Mrs. Otto Schumann sold

HOT TEA BREAKS

A COLD—TRY THIS

Get a small package of Hamburg Breeze Tea at any pharmacy. Take a tablespoonful of this Hamburg tea, put a cup of boiling water upon it, pour through a sieve and drink a teaspoonful at any time. It is the most effective way to break a cold and cure grip, as it opens the pores, relieves congestion. Also loosens the bowels, thus breaking a cold at once.

It is inexpensive and entirely vegetable, therefore harmless.—Adv.

KIDNEY TROUBLE

Is a deceptive disease—thousands have it. You want good results you can make no mistake by using Dr. Kilmer's Swamp-Root, the great kidney medicine. At druggists in large and medium size bottles. Sample size by Parcel Post, also pamphlet telling you about it. Address Dr. Kilmer & Co., Binghamton, N. Y., and enclose ten cents, also mention The Portland Sunday Oregonian.—Adv.

BUILDING PERMITS CLIMB

PORTLAND MAKES GAIN OVER JANUARY, 1918.

Reports From 152 Cities Show Decline of 12 Per Cent in Value for First Month of 1919.

Portland is numbered among the cities which scored a gain in building permits during January, 1919, over the corresponding month of last year. Three hundred and seventy permits, with a total valuation of \$200,080, were issued last month, an increase of 58 per cent over 237 permits, with a valuation of \$126,790, for January, 1918. Los Angeles, Oakland, Berkeley and Spokane were among the other western cities to show gains. Seattle, Tacoma, San Francisco and San Diego registered losses.

POLK BOY GUARDS WILSON

Normal Gates of Dallas Member of President's Honor Guard.

DALLAS, Or., March 1.—(Special).—Dallas Normal Gates, a former resident of this city who went to France as a member of L company, was one of the members of the guard for President Wilson upon the executive's visit two-thirds as many cities reporting in

E. S. COLLINS PURCHASES MODERN ELEVEN-ROOM RESIDENCE.



HOME AT 877 WESTOVER ROAD SOLD BY ADRIAN McCALMAN THROUGH THE AGENCY OF E. J. DALY.

to the troops of the American forces in France on Christmas day. Corporal Gates is in the general headquarters company at Chaumont, France, and will not be able to return to this city with the remainder of old L company boys. In writing to friends he has stated that the president's honor guard consisted of 14 troopers and that he was among the number.

Articles 700 Years Old Displayed by Pendleton Women.

Tax Collection Summons Printed in England in 1746 Exhibited.

PENDLETON, Or., March 1.—(Special).—Antiques ranging in age from 100 to 700 years, and comprising the first exhibit of its kind in Pendleton, were displayed here Saturday under the auspices of the Umatilla chapter, Daughters of the American Revolution, at a dinner tea.

The oldest relic was a Scotch lamp, known as a "light crusie," which is from the 17th century. It was brought from Scotland by Mrs. John Vent. Another antique, which attracted much interest because of its historical value, was a brass doorknob, taken from Washington's headquarters in New Jersey, and handed down through generations to Mrs. Sylvia Cohen.

SPOKANE GROWERS ELECT

200 Orchard and Fruit Men Attend Annual Meeting.

SPOKANE, Wash., March 1.—Approximately 200 orchard and fruit men of eastern Washington and northern Idaho, representing the 145 stockholders of the Spokane Fruit Growers' company, attended the annual meeting of the association here today. The following officers were elected: Otis Orchards; vice-president, E. F. Graves, Meadow Lake; secretary, W. L. Conkey, Jr., Otis orchards; treasurer, W. John, Spokane; assistant secretary, C. J. Webb, Spokane; manager, P. R. Parks, Spokane. Trustees are J. J. Fraser, Benton City; W. Ferguson, Prosper; Alf Hicks, Appleton; W. L. Conkey, Jr., Otis orchards; J. L. Forrest, Otis orchards; J. A. McMillan, Green Acres, Wash.; D. Thorndike, Pleasant Orchard, Prairie, Wash.; A. E. Taylor, Meyers Falls, Wash.; J. C. Syfford, Sanford, H. Weaver, Spokane; F. E. Williams, Opportunity; R. Ininger, Spokane; E. F. Graves, Meadow Lake; W. F. Morrison, King Hill, Idaho.

CASTLE ROCK SOLDIER DIES

Uncertainty of News Leads to Death of Thomas Martin's Father.

CASTLE ROCK, Wash., March 1.—(Special).—Sergeant Thomas F. Martin, a Castle Rock boy who recently died in America entered the war. He was in several battles, was wounded, gassed and reported wounded severely after returning to the front. Martin, who was a member of the 31st division, was cited for bravery. The young man was graduate of the Castle Rock high school. The father of Thomas Martin died from the effects of anxiety over the uncertainty of reports.

Pasco Division Head Returns.

PASCO, Wash., March 1.—(Special).—W. C. Sloan, superintendent of the Pasco division of the Northern Pacific, who has been in service overseas, where he served as a captain, has returned to Pasco and resumed his position with the railroad company. James Shannon, who has served as superintendent during Mr. Sloan's absence, will resume his old position on the Idaho division with headquarters in Spokane.

"The Tale of the Turk," tonight at Westminster church. It's free.—Adv.

BROTHERS MEET IN CAMP

Albany Boys, Back From Overseas, Reunite at Tacoma.

ALBANY, Or., March 1.—(Special).—

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DALLAS PLANS WELCOME

City to Entertain Company L, Now at Camp Merritt.

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A movement has been started in this city by a number of business men to prepare a big home-coming welcome for the members of L company, who have just arrived from France after a two years' absence and are stationed at Camp Merritt. The form of an entertainment has not been decided but a banquet, a dance and general recreation-making are to be included. No permanent committee has yet been selected but subscriptions for equipment of the soldiers have begun to come in and it is expected that be-

PORTLAND MAN GAINS 24 POUNDS

Was Hardly Able to Work Before He Began Taking Tanlac.

"When I started taking Tanlac I was so weak I could hardly do anything at all, and it has not only almost made a new man of me, but I have gained 24 pounds besides," said Charles E. Shaffer, an employe of the Smith-Porter Shipbuilding company, living at 508 West Charleston street, Portland, Or., the other day. "A little over a year ago," he continued, "I suffered from a bad case of grippe that pulled me down till I was hardly fit for a thing. I lost my appetite and what little I managed to force down soured on my stomach and felt as hard as a lump of lead in me, and I was miserable all night and day. Then several weeks ago I had an awful attack of tonsillitis that had me so bad I couldn't swallow a bit of nourishment just for a night and it came near putting me out of business. I felt tired and worn out all the time and lost every spark of energy I ever had. When I went to bed I would roll and toss so much that I never got a good night's sleep; in fact, I haven't been able to sleep much in the last three or four years, and I always got up in the mornings feeling just as bad as when I went to bed. I lost considerable weight and got so weak and run down that at last I just had to quit working altogether. I read so much about the good Tanlac was doing others that I decided to try a bottle. I began to pick up right smartly from the very first, and in a little while I had my appetite back and was eating and enjoying my meals, and everything now agrees with me. I get as hungry as a bear in three hours after eating a hearty breakfast, and my food is building me up something wonderful. I sleep like a log all night and get up in the mornings feeling just fine and dandy. I am fast getting back my old-time energy, and have already got a number of my friends started on Tanlac and expect to keep on boosting it."

Tanlac is sold in Portland by the Owl Drug Co.—Adv.

THIN PEOPLE SHOULD TAKE PHOSPHATE

Nothing Like Plain Bitro-Phosphate to Put on Firm, Healthy Flesh and to Increase Strength, Vigor and Nerve Force.

Judging from the countless preparations and treatments which are usually being advertised for the purpose of making thin people fleshy, developing arms, neck and back and replacing ugly hollows and angles by the soft curved lines of a healthy physique, there are evidently thousands of men and women who are usually due to starved bodies need more phosphate than is contained in modern food.

Physicians claim there is nothing that will supply this deficiency so well as the organic phosphate, Bitro-Phosphate, which is sold by most druggists under a guarantee of satisfaction or money back. By feeding the body cells with the necessary phosphoric food elements, bitro-phosphate quickly produces a well-informed transformation in the appearance; the increase in weight frequently being astonishing.

This increase in weight also carries with it a general improvement in the health. Nervousness, sleeplessness and lack of energy, which nearly always accompany excessive thinness, soon disappear, dull eyes become bright, and pale cheeks glow with the bloom of perfect health. Miss Georgia Hamilton, who was once thin and frail, reporting her own experience, writes: "Bitro-Phosphate has brought about a magnificent transformation with me. I gained 15 pounds and never before felt so well."

CAUTION:—Although bitro-phosphate is unsurpassed for relieving nervousness, sleeplessness and general weakness, it should not, owing to its remarkable flesh-growing properties, be used by anyone who does not desire to put on flesh.—Adv.

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"OWN YOUR HOME" IN PORTLAND. "Set Your Money to Work on Building a Home of Your Own," is the message of W. B. Wilson, Secretary U. S. Dept. of Labor. Portland once more responds promptly to the Government's appeal through its "OWN-YOUR-HOME" CAMPAIGN. BUILD NOW! This is the period of readjustment and idle dollars are as detrimental to the national welfare as idle men. BUILDING IS A BASIC INDUSTRY. To build a home, aside from the obvious benefits to the home-owner, is to make an important and direct contribution to national thrift, readjustment and reconstruction. PORTLAND NEEDS THOUSANDS OF HOMES. Home-building creates a demand for stone, brick, lumber, hardware, concrete, paint, etc., etc.; money circulates—only blood that circulates makes for health. Building absorbs labor. That is of prime importance right now when thousands of soldiers are being released from the army, and industries are in transition from the war to peace gear. Your money, invested in building a home, works for your permanent prosperity and welfare and at the same time renders a not less tangible service to your country. Put your money to work—BUILD NOW. OUR PURCHASING BUREAU SAVES YOU MONEY. All Services Free. Call at "Own Your Home" Campaign Bureau. Corner Fourth and Stark.

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Directory of Prominent Life Insurance Agencies

Members of Life Underwriters' Association of Oregon.

Wm. Goldman, General Manager, NATIONAL LIFE OF VERMONT, Oregonian Bldg.

H. G. Colton, Manager, MARIACHEBETS MUTUAL LIFE, Chamber of Commerce Bldg.

E. T. Harmon, General Agent, PENN MUTUAL LIFE, Northwestern Bank Bldg.

Norace Michelson, Manager, NEW ENGLAND MUTUAL LIFE, Northwestern Bank Bldg.

H. R. Allen, General Agent, NORTHWESTERN MUTUAL LIFE INS. CO., Northwestern Bank Bldg.

fire department, has received a letter telling of the reunion. Roy Eastburn entered the service at the beginning of the war with the old 5th company, coast artillery corps, of this city, and returned from France recently with the 6th artillery. As a man and chief of the Albany volunteer

Camp Lewis last Monday with the 46th artillery.

For the ten-year period ending June 30, 1916, covering the entire time in which records of derelict work have been kept, 388 derelicts have been destroyed or removed.

Sonora

"Delightfully Different and Musically the Most Perfect Talking Machine in All the World". Sonora instruments will reproduce any disc record made without the use of additional devices of any kind. The Sonora was the first instrument on the market that would play all records. Today the Sonora not only plays all records, but will actually reproduce them. Sonora Supreme, \$1000. Other models as low as \$60. There is a Sonora at a price you can afford to pay.

Bush and Lane Piano Co. We Invite Your Inspection. Bush & Lane Bldg., Broadway at Alder. Dealers in Victrolas and Victor Records, Grafonolas and Columbia Records, and the Exclusive Representatives for the Wonderful Sonora.