

No. 14756

Supreme Court of Illinois

Brown

vs.

Keller

STATE OF ILLINOIS,
SUPREME COURT,
THIRD GRAND DIVISION.

No. 64

J. W. Middleton & Co., Stationers, 196 Lake St.

1865

*Brown
vs
Keller*

644

SUPREME COURT OF ILLINOIS,

Third Grand Division---April Term, A. D. 1865.

HELEN S. BROWN, *Plaintiff in Error.*

vs.

PETER P. KELLER, *Defendant in Error.*

Points and Authorities for Plaintiff in Error.

I.

THE plaintiff in error claims, that the verdict and judgment rendered in this cause in the court below, were in *assumpsit*, and that the declaration is in *debt*.

II.

The court erred in overruling the motion for a new trial.

III.

The judgment is against law.

The verdict of the jury was as follows:

"We, the jury, find for the plaintiff. Amount of rent due, two hundred and twenty-two dollars and forty cents."

Upon which judgment, the following judgment was rendered by the court:

The precipe is in debt; the summons is in debt, and the declaration is in debt, and the verdict and judgment are in *assumpsit*.

We submit, if the court please, that such verdict is contrary to law, informal, and not responsive to the issues.

The decisions of this court, as of those of all others, are, that in an action of debt, the judgment must be of the sum named therein *as debt*, and the amount of damages.

Where the verdict is such an one, as from its language, the court can ascertain what was found, it is sufficient, *if it is in substance responsive to the issues*; but it must, we submit, follow the pleadings. The issue found must have reference to the nature of the action.

The verdict and judgment in this case are in *assumpsit*, while the action is one of debt. The verdict is in nowise responsive to the issues tried; and in no respect is it apparent that the jury intended to find the issue of debt for the defendant in error, but on the contrary, such verdict is most clearly and undeniably in *assumpsit*, as is also the judgment rendered thereon.

We submit the following authorities in support of our position:

In an action of debt, the judgment should be for the amount of the debt and for damages.

Jackson v. Haskell, 2 Scam., 405.

Heyle v. Stapp, 3 Scam., 96.

Jones v. Serril, Breese, 174.

In an action of debt, it is error to enter a judgment for the aggregate of the principal and interest.

March v. Wright, 14 Ill., 248.

Mayer v. Hutchinson, 2 Gil., 166.

From the judgment rendered by the court below, it is impossible to discover whether it is for the aggregate of the principal and interest or not. The judgment is too general, as was held in cases of—

Know v. Breed, 12 Ill., 61.

Toles v. Cole, 11 Ill., 563.

We do not deem it necessary to cite further authorities in support of our position. To us, it seems too clear, and has been too long settled to require it.

As to the points made by the defendant in error, and the authorities cited thereon, we fail to discover their applicability to the case under consideration. The error which counsel seems to have fallen into, is in this: that he does not discriminate between a verdict which, though informal, is in substance responsive to the issues tried, and one which is in nowise responsive to such issues. That "the court will receive a verdict and mould it into form, if the meaning of the jury be clear, though it be not expressed in technical language," we do not pretend to deny; but we do most positively assert, that such verdict must *follow the pleadings*, and cannot, as in the case under consideration, which is an action in debt, be found in assumpsit.

In the case of *Parmelee et al. v. Smith*, 21 Ill. 620, the court, WALKER, J., says: "As a general rule, a verdict, although not formal, will be held sufficient if the court can, from its language, ascertain what was found, and it is in substance responsive to the issue tried, and it will be put in form so as to serve the justice of the case."

This was an action of assumpsit, and the verdict of the jury was such an one, as a court could ascertain what was found ; it was in substance *responsive to the issue*, therefore sufficient to support the judgment.

And this case, as to the principle we contend for, is clearly in its support.

The other points made by counsel, are to the same purport, all being based upon the error before mentioned, *i.e.*, the failure to discriminate ^{between} a verdict which is, and one which is not, responsive to the issues tried. We do not deem it necessary therefore to discuss further the points and cases cited by defendant in error.

With these views of the case, and for the reasons before assigned, it is most respectfully submitted that the judgment of the court below should be reversed.

E. S. SMITH,
Attorney for Plaintiff in Error.

64 108
118

IN THE
Supreme Court of the State of Illinois,

THIRD GRAND DIVISION,

April Term, A.D. 1865.

HELEN S. BROWN,
Plaintiff in Error.

vs.

PETER P KELLER,
Defendant in Error.

Points and Authorities for Defendant in Error.

The defendant in error claims that the verdict and judgment rendered in said cause, were *not in assumpsit*. That the judgment rendered in said cause, was rendered in *debt*, and in due form, and that the verdict rendered in said cause was, though informal, also in *debt*. That the said verdict may be informal, but not insufficient to warrant the proper judgment.

In affirming the sufficiency of said verdict to support the judgment in this cause, the defendant in error submits the following:

A verdict of *guilty* in *assumpsit*, though not strictly technical, may be put in form by the court, and is substantially sufficient to support the judgment.

Parmelee et al. v. Smith, 21 Ill. R. 620.

Foster v. Caldwell, 18 Vt. 176.

The court will receive a verdict and mould it into form, if the meaning of the jury be clear, though it be not expressed in technical language.

Russell v. Wheeler, 1 Hemp. 3.

Filed Apr 20. 1865
J. C. Mann Clerk

Nixon v. Nunery, 9 Ired. 28.

14 Vt. 14.

Burton v. Anderson, 1 Texas, 93.

Simmons v. Rarden, 9 Geo. 543.

Harris v. Tiffany, 8 B. Mon. 225.

Harrell v. Stringfield, 1 Morris, 18.

Cane v. Watson, 1 Morris, 52.

White v. Bailey, 14 Con. 272.

[illegible]

In this case the jury have found all issues for plaintiff, though the concluding part of verdict may not technically be in form of debt. The verdict is cured by the Statute of Jeofails.

Matson et al. v. Connelly, 24 Ill. R. 142.

The defendant in error also submits the following, as applicable to questions that may present themselves, or be suggested to the court in the consideration of this case, and entitled to respect

In debt, the plaintiff may now, in any case, recover less than he demands.

Vide Bacon's Abridgment, pages 335, 336, and 337, and the cases there cited, viz.:

1 H. Black, 249.

Baugh v. Philips, 2 Roll. Abr. 702.

Thompson v. Musser, 1 Dall. 458.

Also, in support of the same,

Vide Maulding v. Rigby, 1 How. (Miss.) 579.

It is assigned as error by the plaintiff, "that the judgment is against law and evidence." In answer thereto, the defendant submits,

That the judgment is in debt, and though the verdict is informal, unless the verdict is clearly against evidence, the court will not disturb it.

Archdale v. Moore et al., 19 Ill. R. 565.

As to the verdict being against evidence, the well-established rule is, that the verdict of a jury is presumed to conform to evidence unless the contrary appears from the record.

Barrett v. Mawey, 9 Port. 410.

In this case the record does not show what the evidence was.

The judgment of the court below, as appears from the record, is as follows:

"It is considered that the said plaintiff do have and recover, of and from said defendant, the said amount of two hundred and twenty-two

“dollars and forty cents, being amount of rent due in form aforesaid, by the jury herein found due, together with his costs and charges in this behalf expended, and have execution therefor.”

There are decisions of this court, that in debt, judgments should be of the sum named therein as debt, and the amount of damages, and that the debt was to be discharged upon payment of the damages, but those cases are all actions which have been brought upon penal bonds, in which the judgment was for face of the particular bond, to be discharged upon payment of the damages assessed in that case. Those decisions are inapplicable to a case like the one under consideration.

It is therefore submitted that the judgment of the court below should be affirmed for the reasons that the verdict, though informal, is responsive to the issues, and when taken with the whole record, is not in assumpsit, but in debt, as is also the judgment of the court below, and is also conclusive, and could be pleaded in bar in any suit on the same subject matter, and the judgment is, in form, really in debt, and not in assumpsit.

JAMES REDFIELD,

Attorney for Defendant in Error.

STATE OF ILLINOIS,
SUPREME COURT. } ss. The People of the State of Illinois,

To the Sheriff of Cook County, GREETING:

Because, In the record and proceedings, and also in the rendition of the judgments of a plea which was in the Superior Court of Chicago, Cook County, before the Judge thereof, between Peter R. Keller

plaintiff, and Helen S. Brown

defendant, it is said that manifest error hath intervened, to the injury of the said defendant

as we are informed by her complaint. the record and proceedings of which said judgments we have caused to be brought into our Supreme Court of the State of Illinois, at Ottawa, before the Justices thereof, to correct the errors in the same in due form and manner, according to law: Therefore, We command You, That by good and lawful men of your County, you give notice to the said Helen Peter R. Keller

~~that he~~ and appear before the Justices of our said Supreme Court, at the next term of said Court, to be holden at Ottawa, in said State, on the first Tuesday after the third Monday in April A. D. 1865, to hear the record and proceedings aforesaid, and the errors assigned, if he shall see fit; and further to do and receive what said Court shall order in this behalf; and have you then there the names of those by whom you shall give the said Peter R. Keller

notice, together with this writ.

Witness, The Hon. Pinkney H. Walker, Chief Justice of our said Court, and the Seal thereof, at Ottawa, this 28th day of July in the year of our Lord One Thousand Eight Hundred and Sixty-four.

V. Leland
Clerk of the Supreme Court.
J. M. Rice Depy

Helena S. Brown

No. 360 vs.

Peter P. Keller

SCIRE FACIAS.

FILED... *Sept 2* ... A. D. 1864

L. L. C. Clerk.

E. S. Since the
acts for Plaintiff is over

I accept same on this
with for defendant Keller, and
request the clerk to enter this
appears by me his attorney
August 11/64 James Redfield
att'y for Peter P Keller

IN THE
Supreme Court of the State of Illinois,

THIRD GRAND DIVISION,

April Term, A.D. 1865.

HELEN S. BROWN,
Plaintiff in Error.

vs.

PETER P KELLER,
Defendant in Error.

Points and Authorities for Defendant in Error.

The defendant in error claims that the verdict and judgment rendered in said cause, were *not in assumpsit*. That the judgment rendered in said cause, was rendered in *debt*, and in due form, and that the verdict rendered in said cause was, though informal, also in *debt*. That the said verdict may be informal, but not insufficient to warrant the proper judgment.

In affirming the sufficiency of said verdict to support the judgment in this cause, the defendant in error submits the following:

A verdict of *guilty* in assumpsit, though not strictly technical, may be put in form by the court, and is substantially sufficient to support the judgment.

Parmelee et al. v. Smith, 21 Ill. R. 620.

Foster v. Caldwell, 18 Vt. 176.

The court will receive a verdict and mould it into form, if the meaning of the jury be clear, though it be not expressed in technical language.

Russell v. Wheeler, 1 Hemp. 3.

Given H/20. 1862
S. S. Lane

Though a verdict be not technically responsive to the issue, yet if in its sense and legal effect it makes a response to the pleadings, it is sufficient.

Lowery v. Brown, 3 Sneed (Tenn.) 17.

Nixon v. Nunery, 9 Ired. 28.

A verdict is not bad for informality if the finding of the matter in issue may be concluded from it.

Allen v. Aldrich, 9 Foster, (N. H.) 63; 10 N. H. 514.

Barrett v. Wills, 4 Leigh, 114.

James v. Wilson, 7 Texas, 230.

2 Ala. 74.

Longacre v. The State, 2 How. (Miss.) 637.

14 Vt. 14.

A verdict is sufficiently certain if a reference to the record can render it certain; a verdict for either party in general terms is sufficient.

Smith v. Johnson, 8 Texas, 418.

Burton v. Anderson, 1 Texas, 93.

Verdicts are to have a reasonable intendment, and to receive a reasonable construction, and are not to be avoided unless from necessity.

Simmons v. Rarden, 9 Geo. 543.

A general finding for the plaintiff is a valid finding by the jury, although set-off be pleaded, the general finding for the plaintiff being in effect a rejection of all set-off.

Harris v. Tiffany, 8 B. Mon. 225.

No particular form of words is necessary to the validity of a verdict; it is sufficient if its meaning be clear.

Harrell v. Stringfield, 1 Morris, 18.

A verdict which clearly expresses the intention of the jury, will not be set aside.

Cane v. Watson, 1 Morris, 52.

Though it is a general rule that the jury are to answer all the issues, yet, if it appears that the whole question in the case is settled by the verdict, that verdict is not to be set aside unless the omission to find the other issues may in some way prejudice the party complaining.

White v. Bailey, 14 Con. 272.

White v. Bailey
14 Conn. 272

In this case the jury have found all issues for plaintiff, though the concluding part of verdict may not technically be in form of debt. The verdict is cured by the Statute of Jeofails.

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Thompson v. Musser, 1 Dall. 458.

Also, in support of the same,

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It is assigned as error by the plaintiff, "that the judgment is against law and evidence." In answer thereto, the defendant submits,

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The judgment of the court below, as appears from the record, is as follows:

"It is considered that the said plaintiff do have and recover, of and from said defendant, the said amount of two hundred and twenty-two

“dollars and forty cents, being amount of rent due in form aforesaid, by the jury herein found due, together with his costs and charges in this behalf expended, and have execution therefor.”

There are decisions of this court, that in debt, judgments should be of the sum named therein as debt, and the amount of damages, and that the debt was to be discharged upon payment of the damages, but those cases are all actions which have been brought upon penal bonds, in which the judgment was for face of the particular bond, to be discharged upon payment of the damages assessed in that case. Those decisions are inapplicable to a case like the one under consideration.

It is therefore submitted that the judgment of the court below should be affirmed for the reasons that the verdict, though informal, is responsive to the issues, and when taken with the whole record, is not in assumpsit, but in debt, as is also the judgment of the court below, and is also conclusive, and could be pleaded in bar in any suit on the same subject matter, and the judgment is, in form, really in debt, and not in assumpsit.

JAMES REDFIELD,

Attorney for Defendant in Error.

Superior County State of Illinois
3^d Grand Division
Helen S Brown Plaintiff in error
vs
Peter S Keller Defendant in error

And now comes Peter S Keller The
defendant in error in the above
entitled cause by James Redfield
his attorney and moves this
Honorable Court for an order
setting aside the execution
of by this court
issued in said cause - and
an order ^{to} set aside the order
reversing the said cause judgment
~~said cause~~ ~~reversing the said cause judgment~~
~~of this court for the~~ ~~in said cause~~
for reasons appearing upon
the record in said cause

James Redfield
Atty for Dft in error

Suggestions in support of Motion
The Scire Facias is issued on 20th of April/63
the return day was on 21st of April - "
There was no service of the writ in
time for that term -
There was never any service
of writ at all
James Redfield
Atty for Dft in error

³⁰⁰
Helen S. Brown 64

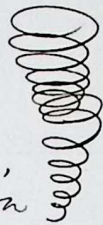
2

Peter P. Keller

Mo time to get
aside unusual

Filed June 1st 1884
L. Leland
Clerk

State of Illinois
Supreme Court
Third Grand Division



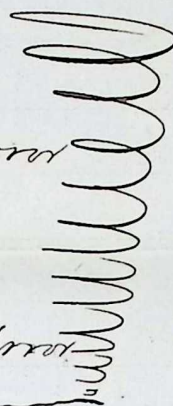
April Term 1865

Helena S. Brown

Plff in Error

Peter P. Keller

Defl in Error



It is hereby stipulated and agreed by and between the counsel for the respective parties in the above entitled cause, that the same be submitted to the Court for decision, upon the printed briefs and arguments of counsel on file in said cause.

Dated April 18th 1865 James Redfield

Counsel for

Defl in Error

E. B. Smith

Atty for Plff in Error

⁶⁴
In Supreme Court.

Helen S. Brown

vs Plff in error

Peter P. Keller

Defendant in error

Stipulation to submit
upon printed briefs
and arguments.

91 mark

Filed April 20. 1885.
Skeland
Ck.

UNITED STATES OF AMERICA,

STATE OF ILLINOIS, COUNTY OF COOK, SS.

Pleas, before the Honorable, the Judges of the Superior Court of Chicago, within and for the County of Cook and State of Illinois, at a regular Term of said Superior Court of Chicago, begun and holden at the Court House, in the City of Chicago, in said County and State, on the first Monday, being the Third day of November in the year of our Lord One Thousand Eight Hundred and Sixty Two and of the Independence of the United States of America the Eighty Seventh

Present, The Honorable John M. Wilson Chief Justice of the }
Superior Court of Chicago. }

August Higgins }
Grant Ordwich } Judges.

Joseph Rury Prosecuting Attorney.

Anthony C. Hering Sheriff of Cook County.

Attest, Thomas B. Carter Clerk.

Be it remembered that herefor writ in the
Twenty Seventh day of June in the year of our Lord
One Thousand Eight Hundred and Sixty Two and
issued out of the office of the Clerk of the Superior
Court of Chicago the People writ of Summons
which said writ with the Sheriff return there
ordered are in words and figures following to wit

State of Illinois
Cook County } ss.

The People of the State of Illinois
To the Sheriff of said County Greeting:—
We Command You that You Summon Nelson
S Brown if he shall be found in your County,
personally to be and appear before the Superior Court

of Chicago of Said County, on the first day of the next
Term thereof to be holden at the Court House in
Chicago in Said County on the first Monday of July
next, to answer unto Peter J Keller in a plea
that she owes to the Said plaintiff Six Hundred
Dollars which she owes to and unjustly detain
from him to the damage of the Said Plaintiff as
is said, in the Sum of Six Hundred Dollars
And have You then and then this writ with an
endorsement hereon in what manner You shall have
executed the same

(Seal) Witness Thomas O'Carroll Clerk of our
Said Court and the Seal thereof at Chicago
Afore said this 27th day of June AD 1862
Thos O'Carroll Clerk

Served by reading the writ &c &c.

Witness named defendant this 27th

day of June 1862, Anthony O'Hara Sheriff

Ry John A Nelson Deputy

And afterwards to wit on the Twenty Seventh day of
June. The Plaintiff in this Suit by J Reaford
his Attorney filed in the office of the Clerk aforesaid
his Certain Declaration in words and figures
following to wit:—

(2)

Superior Court of Chicago

July Term A.D. 1862

State of Illinois }
Cook County } S.S.

Peter P. Keller Plaintiff in this suit
by James Beesfield his attorney complains of Helen
S. Brown Defendant in this suit of a plea that she
render to the said Plaintiff the sum six hundred
dollars lawful money of the United States of America
which she owes to & unjustly detains from him.
For that whereas the said Plaintiff heretofore to wit
on the first day of October A.D. 1861 at Cook County
State of Illinois, demised to the said Defendant a
certain Lot and house in the City of Chicago and
County aforesaid, said Lot known as Lot number three
in Block number one hundred and twenty one School
Section addition to Chicago and ^{the} house thereon known
as number ninety six Adams Street, with the appurte-
nances to have and to hold the same to the said De-
fendant for a certain term to wit: for and during
and until the full end and term of seven months then
next ensuing And fully to be completed and ended
she yielding & paying therefor during the said term
to the said Plaintiff the sum of Twenty five dollars
per month at the end of each & every month during all
of said term. By virtue of which demise the said De-
fendant entered into the said demised premises with
the appurtenances and now possessed thereof from thence.

fourth until the first day of May A.D. 1862 and said plaintiff avers that the sum of one hundred and seventy five dollars of Rent was on said last mentioned day due and unpaid to the said plaintiff from the said Defendant the same having become due to him as follows \$25⁰⁰ on the last day of October 1861, \$25⁰⁰ dollars on the last day of November A.D. 1861, \$25⁰⁰ on the last day of December A.D. 1861, \$25⁰⁰ on the last day of January A.D. 1862, \$25⁰⁰ on the last day of February A.D. 1862, \$25⁰⁰ on the last day of March A.D. 1862, and \$25⁰⁰ on the last day of April A.D. 1862, said several sums of Twenty five Dollars each so due as aforesaid amounting to the aggregate sum of one hundred and seventy five Dollars and said aggregate sum being the rent of the said seven months Commencing October 1st A.D. 1861 & ending on the last day of April A.D. 1862. and plaintiff avers that on said 1st day of May A.D. 1862 there was due & payable from said defendant to said plaintiff said sum of one hundred and seventy five dollars of Rent for said demise premises for the seven months then last elapsed, and still is in arrears & unpaid to the said plaintiff to wit. at Cook County aforesaid whereby an action hath accrued to said plaintiff to demand & have of said defendant the said sum of one hundred and seventy five Dollars paid of the said sum also demanded.

And whereas also afterwards to wit on the first day of June A.D. 1862 at Chicago to wit at said

3

Cook County the said defendant was indebted to the said plaintiff in the further sum of two hundred Dollars of like lawful money for the use and occupation of a certain lot of land Building and messuage with the appurtenances of the said plaintiff, by the said defendant and at her special instance & request and by the sufferance & permission of the said plaintiff for a long time before then elapsed, to wit for the space of eight Months before said 1st day of June A.D. 1862 then last elapsed, had held used occupied possessed & enjoyed, and to be paid by the said defendant to the said plaintiff when she the said defendant should be thereunto afterwards requested Wholly & by reason of said last mentioned sum of money being and remaining wholly unpaid an action hath accrued to the said plaintiff to demand and have of & from the said defendant the said last mentioned sum of Two hundred Dollars other parcel of the said sum above demanded

And whereas also afterwards to wit on the 27th day of June A.D. 1862 at Chicago to wit at Cook County aforesaid in consideration that the said plaintiff at the like special instance & request of the said defendant had before that time suffered and permitted the said defendant to have hold use occupy possess and enjoy a certain other lot of land, messuage & Building with the appurtenances of the said plaintiff and that she the said defendant

had according to the last mentioned sufferance
permission of the said plaintiff, had, holden, used
occupied, possessed and enjoyed the same for a long
space of time then elapsed she the said defendant
undertook and then & there agreed to pay to the said
plaintiff so much money as he therefore reasonably
deserved to have of the said defendant when she
the said defendant should be thereunto afterwards
requested.

And the said plaintiff avers
that he therefore reasonably deserved to have of the
said defendant the further sum of Two hundred
& twenty five dollars of like lawful money, to wit
at Cork County aforesaid, whereof the said defendant
afterwards to wit on the 27th day of June AD 1862
then had notice, whereby an action hath accrued to
the said plaintiff to demand and have of and from
the said defendant the said last mentioned sum
of two hundred & twenty five dollars, other parcel
of the said sum above demanded.

Yet the said defendant (altho. often requested so to
do) hath not as yet paid the said sum of Six hun-
dred Dollars above demanded or any part thereof
to the said plaintiff - But she to do this hath
hath wholly refused, and still doth refuse, to the
damage of the said plaintiff of six hundred
dollars and therefore he brings this suit

James Beedfield
Attorney for Plaintiff

4.

Account on which suit is brought

Hellen S Brown

G. Peter P. Keller Dr

No Rent of House Had from Oct 1/61. to May 1/62 \$175-00

11 Used occupation of Nurse Sat from Oct 1/61 to June 1/62 \$ 200.00

" " " " " " " Oct 1/61 " June 27/62 \$ 225.⁰⁰
e e e e e

5

And afterwards to wit on the Ninth day of July
in the Year aforesaid the Defendant in the Cause
by Smith Hart & Clyde her attorneys filed herein
her Certain Plea in words and figures following to wit

State of Illinois }
Cook County }

Superior Court of Chicago
July Term A.D. 1862

Peter P. Keller }

vs
Helen S. Brown }

And the Said Helen S
Brown defendant in this Suit by Smith Hart and
Clyde her attorneys Came and defended the wrong &
injury whereof and says that she does not owe the
Said Sums of money above demanded or any portion
of them or any part thereof in manner and form as the
Said Plaintiff hath above thereof Complained Against her
and of this she the Said defendant sets herself upon
the Country - And the Said Plaintiff doth the like

Smith Hart & Clyde
Defendant's Atty

And the Said Plaintiff doth the like

Samuel Redfield

Plf's Atty

And afterwards to wit on the Tenth day of September
in the Year aforesaid the defendant in the said filed

Senior in Certain affidavits of Oaths in Words and
Signs following to wit

State of Illinois }
Cook County } Superior Court of Chicago

Pet. & Kellin }
vs } Debt
Helen S. Brown }

State of Illinois }
Cook County } ss

Helen S. Brown
defendant in the above entitled Cause being duly
sworn on oath, says that she has fully stated her
defence in the above entitled Cause to her Attorneys
and that she is advised by her Attorneys and verily believes
the same to be a good defence upon the
points to said Suit

Subscribed & sworn to before
me this 13th day of September
AD 1862

Helen S. Brown

(Seal) Miles Albany
N.P.

And on the day and Year aforesaid, said day being
one of the days of the September Term of said Court
the following Cause & the proceedings were had in said
Court and entered of record to wit

6.

Peter P Keller

Helen S Brown

Debt

This day Comes Said defend-
ant by E. S. Smith & Co her Attorneys and in this
motion it is ordered that Said defendant be and is
specially allowed to file an affidavit of merits herein

And afterwards to wit on the Twenty Fourth day
of October in the Year aforesaid Said day being
one of the days of the October Term of Said Court the
following Among other proceedings was had in Said
Court and entered of record to wit

Peter P Keller

Helen S Brown

Debt for Rent

This Cause being this day Called
for trial Comes Said Plaintiff by James Redfield his
Attorney and Said defendant by E. S. Smith & Co her
Attorney also Come and defendant Submits her motion
based on affidavit of E. S. Smith for Continuance in Said
Cause, which motion is overruled by the Court and a
Continuance denied to which ruling of the Court Said
defendant by her attorney then and there excepted and
upon being joined herein it is ordered that a jury Come
whenever Comes the jury of good and lawful men to wit

George Little, H. Adams, J. Sumner, H. Seville, William
Homer, M. Casady, James F. Furry, L. A. Talcott
J. Chingman Jr., William Selvestro, J. P. Harrington
and of Mr. Rine, who being duly elected tried
and sworn to try the case joined herein as aforesaid
after having evidence arguments of Counsel and instruc-
tion of the Court. Retire to Consider of this verdict and
afterwards returns into Court Submit this verdict and
Say we the jury find for the plaintiff Amount of
rent due two hundred and twenty two dollars and
fifty Cents.

And therefore Said defendant Submit her
motion herein for a new trial in Said Cause

(7)

And afterwards writ on the Twenty Fifth day of October in the Year aforesaid the defendant in this Cause by Smith Hart & Clyde his attorneys filed herein his Motion for a new trial in words and figures following to wit

State of Illinois
County of Cook }
In the Superior Court of
Chicago October Term 1862

Peter P Keller }

Helen S Brown } In debt

And now Comes the said defendant by Smith Hart & Clyde his Attorneys and moves the Court here for a new trial in said Cause and in arrest of judgment for the reasons following to wit:

1st Because the Verdict is Contrary to law, in this regard: That the Action is in Debt and the Verdict or judgment in Assumpsit

2nd Because the Verdict is against the law and evidence

Smith Hart & Clyde
Attys for Debt

And afterwards writ on the Fifteenth day of November in the Year aforesaid Said day being one of the days

of the November Term of Said Court the following among
the proceedings was had in said Court and entered
of record to wit

Peter P. Kellen
vs
Helen S. Brown

Motion for new trial in Debt for Rent

This day again comes said
Plaintiff by Jas Redfield his Attorney, and said
defendant by E. S. Southwick her Attorney also comes
and this cause coming on now to be heard upon the
motion of said defendant heretofore submitted herein
at the October Term A.D. 1862 of this Court for a
new trial in said Cause and Counsel being heard
thereon and the Court being fully advised in the premises
it is considered by the Court that the motion of said
defendant be and is hereby overruled and that a
new trial be refused ~~for a new trial~~ & said defendant
to which ruling of the Court in overruling her said motion
for a new trial said defendant thence and thence excepted
and it is ordered that said defendant be allowed
thirty days time in which to file her bill of exceptions
Wherefore said Plaintiff ought to have judgment
entered herein for Amount of Rent due upon the verdict
of the jury rendered herein as aforesaid.

Therefore it is considered that said Plaintiff do have
and recover of and from said defendant the said
Amount of two hundred and twenty two dollars

(8)

and forty Cents being Amount of Rent due in form
aforesaid by the jury having found due together with
his Costs and Charges in this behalf expended and
have execution therefor

State of Illinois }
County of Cook }

I Thomas O Carter Clerk of
the Superior Court of Chicago within and for the
County and State aforesaid do hereby Certify that
the foregoing is a full true & complete Transcript
of all the Pleadings on file in my office - all the
Orders of Court and the judgment entered of record
therein in a Certain Case wherein Peter P Keller
was Complainant or Plaintiff and Helen S
Groom was Defendant

In testimony whereof I have
hereunto set my hand and
affixed the Seal of said Court
at Chicago in said County this
Tenth day of April A D 1863
Thomas O Carter
Clerk



Supreme Court of Illinois
Third Grand Division

Of the term of April
in the year of our
Lord One thousand
Eight hundred and
Ninety three.

Helen J. Brown
Plff in Error
vs
Peter R. Keller
Defendant in Error
Assignment
of Errors

Afterwards to wit, at this same term
on the first Tuesday after the third
Monday of April before the Justices
of the Supreme Court of the State of
Illinois, at the Court House in the City
of Ottawa Comes the said Helen
J. Brown plaintiff in Error. By Smith
Hart and Clyde her Attorneys, and say
that in the record and proceedings
aforesaid as well as on going the
judgment aforesaid there is manifest error
in this to wit. 1. That the declaration

in the record and proceedings aforesaid
is in debt. And the judgment is a sum of
2. That the verdict was informal & irregular
and the Court erred in directing judgment
to be entered thereon. 3. The Court erred
in overruling the motion for new trial. 4.
The Verdict & judgment are against law,
Wherefore for the Errors aforesaid and
other Errors in the record and proceedings
aforesaid, the said Helen S Brown
plumhoff vs Error by Smith Hart & Clyde
her attorneys, pray that the judgment
aforesaid in form aforesaid given
may be reversed annulled and
set aside held for nothing and that
she may be restored to all things which
she has lost by reason thereof

Smith Hart & Clyde
Attys for Plaintiff in Error

State of Illinois } In Supreme Court
Third Grand Division } To April Term AD 1865

Peter P. Keller
Defendant in Error } Joinder in Error
vs
Helen S. Brown
Plaintiff in Error }

And the said Peter P. Keller
defendant in error, now comes and says
that there is no error, either in the
Record and proceedings aforesaid, or
in giving judgment aforesaid in
manner and form as above assigned;
and therefore he prays that
the said judgment may be
affirmed and that his costs may
be adjudged to him &c

By James Redfield
att'y for
Def't in Error -

Journal in case

First Month 23. 1865

Leland C. M.

Superintendent
Thos. H. Hudson
~~~~~  
John S. Brown 158  
Reffm Enn

vs  
Peter P. Keller  
Left Enn  
~~~~~  
Re cred. &

Assignment of Enns

of
Filed April 20, 1863
L. Leland
clerk

Ass. \$4.00.