Supreme Court of Illinois

Halli**GAN** ~~ngton~~

vs.

Wade.

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SUPREME COURT OF ILLINOIS,

Third Division—April Term, 1859.

PATRICK HALLIGAN,
   vs.   } *Appeal from La Salle.*
THOMAS J. WADE.

APPELLEE'S BRIEF.

An eviction by a landlord of a tenant from any substantial portion of the demised premises, suspends the collection of the whole rent.

> Wade vs. Halligan, 16 Ill., 507, (this case.)
> Watts vs. Coffin, 11 Johns R., 495.
> Bonnett vs. Bittles, 4 Rawle, 339.
> Lewis vs. Payne, 4 Wend., 429.
> See, also, the cases cited upon 2d point.

2d. If the landlord do such acts as destroy the beneficial use of the premises leased, he forfeits his right to collect rent for the time the tenant is so disturbed in the enjoyment of the premises.

> Wade vs. Halligan, 16 Ill., 512.
> Briggs vs. Hall, 4 Leigh, 484.
> Ogilvie vs. Hall, 5 Hill, 52.
> Cohen vs. Dupont, 1 Sandf. 260.
> Jackson vs. Eddy, 12 Mis., 209.
> 1 Starkie's R., 94.
> Dyett vs. Pendleton, 8 Cow. R., 727.
> Tomlinson vs. Day, 6 Eng. C. L. R., 327.
> Edwards vs. Heatherington, 16 Eng. C. L. R., 271.
> Conie vs. Goodwin, 38 Eng. C. L. R., 162.

3d. Whether there were acts done by Halligan which destroyed the enjoyment of the demised premises, was peculiarly the province of the jury to determine.

> See
>   Cohen vs. Dupont, 1 Sandf., 260.
>   Bonnett vs. Bittles, 4 Rawle, 339.

4th. If Halligan, after leasing to Wade, alienated some portion of the demised premises, and Wade lost the use of such part: if Halligan had any claim for the rent of the remainder, he had no right to distrain, but must sue for use and occupation under a *quantum merruit.*

> Tomlinson vs. Day, 6 Eng. C. L. R., 327.
> Lawrence vs. French, 25 Wend., 443.

5th. When an eviction from some portion of the premises is shown, such eviction will be presumed to have continued until the contrary appears.

> Lewis vs. Payne, 4 Wend., 423.

See written argument.

                                B. C. COOK, for Appellee.

Halligan & Wade

appellees Brief

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