

The Provincial Statutes of Lower-Canada, Being the third session of the fourteenth Provincial Parliament of Lower-Canada. Quebec: John Carleton Fisher & William Kemble, Law Printer to the King's Most Excellent Majesty, 1833.

3 William IV – Chapter 1

An Act to regulate the exercise of certain rights of Lessors and Lessees. (3d April, 1833)

Whereas the provisions of the existing Law respecting premises held under lease, have proved in some respects insufficient for the convenient adjustment of matters in dispute between Landlord and Tenant: Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Lower Canada, constituted and assembled by virtue of, and under the authority of an Act passed in the Parliament of Great Britain, intituled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's Reign, intituled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America,' and to make further provision for the Government of the said Province," And it is hereby enacted by the authority of same, that whensoever the Tenant of any House, Tenement or Farm, shall have omitted to furnish the same with Furniture or Stock sufficient to secure the rent thereof, as required by Law, or shall commit waste or depredation on the premises, or shall not make a right and proper use of the same, or shall continue contrary to the will of the Proprietor or Lessor to remain therein or occupy the same, (after the expiration of the Lease, in virtue of which he holds the said premises,) or without having paid the rent or furnished the premises according to Law, so as to secure such rent, it shall be lawful for any such Lessor by a summons issued from the Office of the Prothonotary of the Court of King's Bench, or that of the Provincial Court of the District, or the Inferior District, to summon such Tenant or occupier before any two of the Judges, or Provincial Judge, or resident Judge in the District of Three Rivers [Trois-Rivières], in vacation, and that such Judge, or Provincial Judge, or Resident Judge in vacation, shall in due course, hear, determine and adjudge upon the matter in issue, and award costs: Provided always that when the sum of money in contestation shall not exceed ten pounds sterling, the said demand and all the proceedings thereon may be made and had before any one of Justices of the said Court in vacation.

II. And be it further enacted by the authority aforesaid, that whensoever any Farm, Dwelling House, Store or Out Building or Premises, holden under lease, shall be in such a state as to render it necessary that such repairs as are by Law, or by stipulation incumbent on the Lessor should be done thereto; and the Lessor upon being duly notified by his Tenant, of the nature of such repairs, and the necessity of making them, shall refuse or neglect to make them, it shall be lawful for the lessee to proceed in vacation before two Judges, or a Provincial Judge, or the Resident Judge in the District of Three-Rivers, by Action, against the Lessor for constraining him to make such repairs forthwith, at his own expense; and for obtaining the rescission of the lease, in case of default to make such repairs.

III. And be it further enacted by the authority aforesaid, that upon due proof in vacation before two Judges or the Provincial or said Resident Judge, that such repairs are necessary, it shall be lawful for them, or him, respectively, to order that the Lessor do forthwith cause such repairs to be made at his expense, and if not accordingly made, and the default of the Lessor to comply with such order, be set forth by Petition from the Lessee to such two Judges, or Provincial or Resident Judge, supported by due proof; it shall be lawful for them, or him respectively, by Judgment to rescind the lease upon which the action was founded.

IV. And be it further enacted by the authority aforesaid, that upon failure by the Lessor to cause such repairs to be made according to such order, it shall be lawful for the Lessee to cause them to be made at the cost of the Lessor, and for the recovery of any monies such Lessee may have expended in and about the making of such repairs, he shall have his action before the Court of King's Bench for the District.

V. And be it further enacted by the authority aforesaid, that whensoever the Lessee shall refuse to permit the making of any such necessary repairs, it shall be lawful for the Lessor to proceed in like manner before two Judges or Provincial or Resident Judge, for the District of Three Rivers, for compelling him to permit them to be made, and that it shall be lawful for the said Judges, or Provincial or Resident Judge, thereupon to order that such repairs be forthwith made, notwithstanding any resistance on the part of the Lessee, and that any Lessee, resisting the execution of such order, shall be liable to an attachment for his contempt in so doing, and also to an action of damages at the suit of the Lessor.

VI. And be it further enacted by the authority aforesaid, that all actions under this Act shall be instituted in the manner usual in other matters, by filing a declaration, issuing a writ of summons thereupon, and causing the same to be served upon the Defendant by the delivery of a Copy thereof, and that when the Defendant's place of residence shall be situate within the county wherein the summons shall be made returnable, there shall be between the days of service and return, (exclusively of those days,) three intermediate days, and when the Defendant shall reside beyond the limits of such County, there shall be one additional intermediate day for every space of five leagues beyond those limits; that in every such action the Defendant shall be bound to answer on the first day, next after return day, and that all the proceedings shall be had in the Hall in which the sittings of the Court of King's Bench are usually holden.

VII. And it further enacted by the authority aforesaid, that whensoever, in any action brought under this Act, the lease shall be rescinded, the party at whose instance the same may be rescinded shall not be deprived of his Action of Damages against the adverse party; provided always, that nothing herein contained shall in any of the cases above specified, prevent any tenant or occupier deeming himself aggrieved by any such Lessor, from prosecuting such remedy as he may in such case be entitled to; nor shall prevent any proprietor or Lessor from availing himself of the Saisie Gagerie, nor of any other course which by law he may now pursue.

VIII. And be it further enacted by the authority aforesaid, that in all cases where the matter in dispute shall exceed the sum of twenty pounds sterling, or where either party shall demand the rescision of a Lease for the unexpired term whereof the tenant is liable to pay a sum exceeding twenty pounds sterling, an appeal shall lie to the Provincial Court of Appeals from the Judgment made and rendered in virtue of the power granted by this Act, the party instituting such Appeal giving security to pay the amount of the Judgment and execute the same faithfully if confirmed as is required by the Laws regulating the Appeals from the Judgments pronounced by His Majesty's Courts of Law.

IX. And be it further enacted by the authority aforesaid, that this Act shall be, and remain in force until the first day of May one thousand eight hundred and thirty-eight, and no longer.