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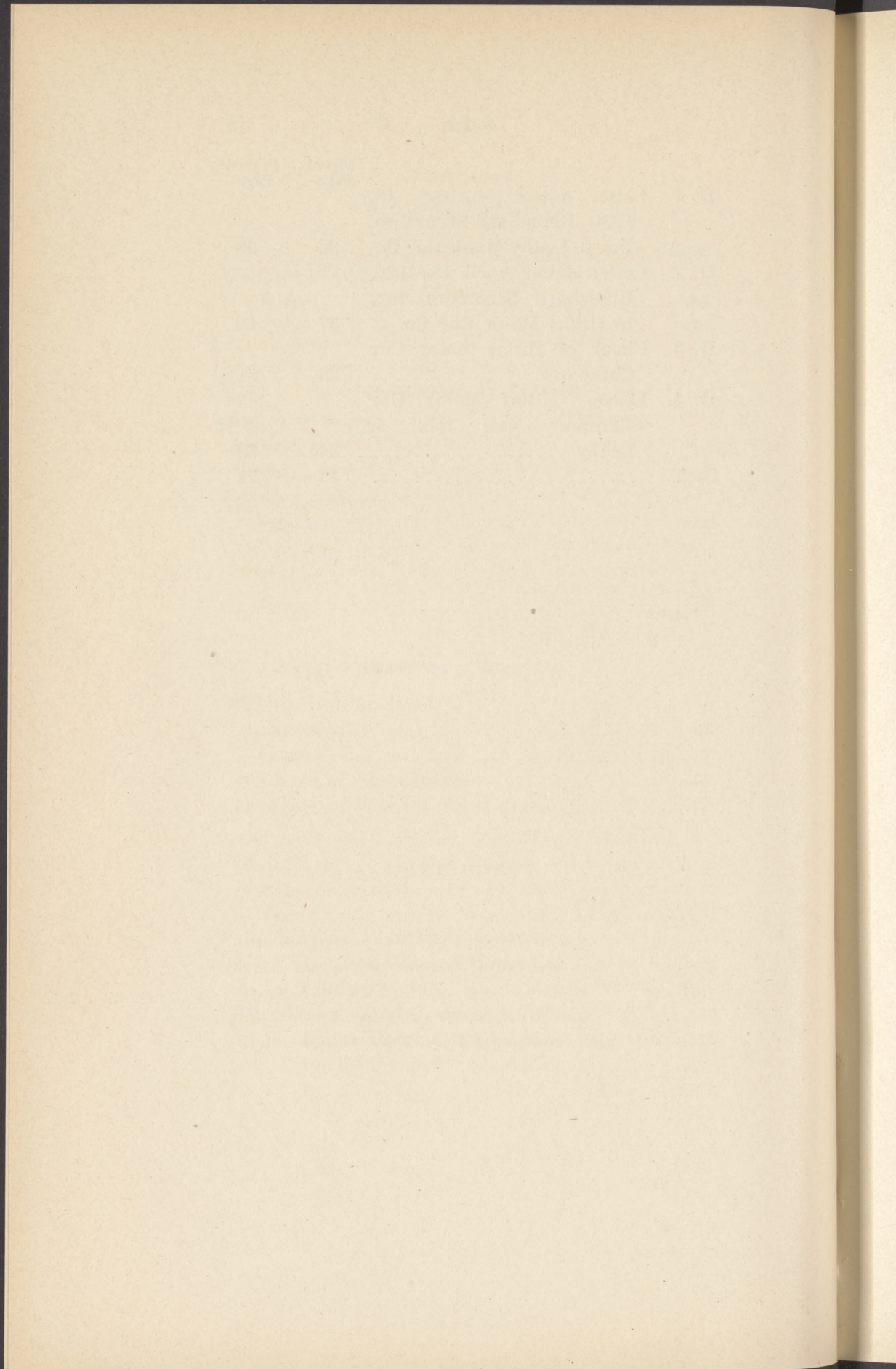
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TRANSCRIPT OF CLERK'S DOCKET.

No. 149433

I, LOUIS HECHT, Clerk of the First District Court of the City of Newark, in the County of Essex and State of New Jersey, do hereby certify that the following is a true copy of the record and proceedings in the case of Blanchard Securities, Inc. *vs.* The Bonnell Company, formerly Bonnell Motor Car Co., Inc. and Hillas Motor Car Co., held in the First District Court of the City of Newark, in the County of Essex and State of New Jersey, as taken from the First District Court Docket No. 310, page No. 149433.

10

20

Dated: July 21st, 1931.

(SEAL)

LOUIS HECHT,
Clerk.

First District Court of the City of Newark, in the County of Essex and State of New Jersey.

I, CECIL H. MACMAHON, Judge of the First District Court of the City of Newark, in the County of Essex and State of New Jersey, do hereby certify that the aforesaid Court is a Court of record, that Louis Hecht, whose name is subscribed to the preceding transcript, is the Clerk of the First District Court of the City of Newark, County of Essex and State of New Jersey, and that full faith and credit are due to his official acts.

30

40

Transcript of Clerk's Docket—Case No. 149433.

Witness my hand at Newark, N. J., this twenty-first day of July, A. D. nineteen hundred and thirty-one.

CECIL H. MACMAHON,

10

Judge.

First District Court of the City of Newark, in the County of Essex and State of New Jersey.

20

I, LOUIS HECHT, Clerk of the First District Court of the City of Newark, in the County of Essex and State of New Jersey, do hereby certify that the aforesaid Court is a Court of Record, that Honorable Cecil H. MacMahon, whose name is subscribed to the preceding certificate, is the Judge of the First District Court of the City of Newark, in the County of Essex and State of New Jersey and that the signature of said Judge is genuine.

30

In testimony whereof I have set my hand and affixed the seal of said Court this twenty-first day of July, A. D. nineteen hundred and thirty-one.

(SEAL)

LOUIS HECHT,
Clerk.

40

Transcript of Clerk's Docket—Case No. 149433.

Transcript of Clerk's Docket.

FIRST DISTRICT COURT.

NEWARK, N. J.

10

BLANCHARD SECURITIES, INC.,
Plaintiff,

vs.

THE BONNELL COMPANY, a corp. of
N. J., formerly Bonnell Motor
Car Co., Inc. and HILLAS MOTOR
CAR COMPANY, a corp. of N. J.,
Defendants.

20

Saul and Joseph E. Cohn, Pltf.'s Attys.

PLTF.'S COSTS.

Summons	\$2.50	April 1
Listing	1.50	April 13
Mileage	.16	
Atty. fee	8.33	

30

12.49

Order	1.00	July 16
Appeal bond	1.00	July 21

571 Central Ave.

A state of demand was filed, and a summons in the above-stated cause was issued on the first day of April, 1931, returnable on the fourteenth day of April, 1931, wherein the plaintiff demands of defendant the sum of Five Hundred Dollars.

40

Transcript of Clerk's Docket—Case No. 149433.

The summons was served and returned as follows:

10 I served the within Summons April 6th, 1931 on Alex Star he being the Secretary of said Bonnell Motor Car Co. Inc. & Hillas Motor Car Company, by reading it to him and giving him a copy thereof.

FRANK MCNELLEN,
Sergeant-at-Arms.

1931.

April 14. This cause was adjourned to April 28, May 21, June 25.

20 June 25. The plaintiff and the defendants appearing, the cause was tried at this time.

Wm. E. Davenport sworn as stenographer.

Wm. L. Blanchard sworn for the plaintiff. Lease and letter in evidence.

Robert N. Hillas, Alexander Starr and John Layhe sworn, for the defendant.

30 Letters, lease and check in evidence. The evidence being closed, the Court reserved decision.

July 7. The Court rendered judgment in favor of the plaintiff and against the defendant Hillas Motor Car Co. in the sum of one hundred sixty-six and 67/100 dollars damages with costs \$166.67, whereupon judgment is rendered in favor of the plaintiff and against the defendant Hillas Motor Car Co. in the sum of one hundred sixty-six and 67/100 dollars damages with costs.

40

Transcript of Clerk's Docket—Case No. 149433.

Judgment for the defendant Bonnell
Motor Car Co.

- “ 16. Order filed amending the summons and
state of demand to read The Bonnell
Company, a corp. of N. J., formerly 10
Bonnell Motor Car Co., Inc.
- “ 17. Notice of appeal filed.
- “ 21. Appeal bond filed.

20

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COUNTY OF ESSEX, }
STATE OF NEW JERSEY. { SS.:

WITNESS, CECIL H. MACMAHON, Esq., Judge of said Court at Newark, as aforesaid, the first day of April, in the year one thousand nine hundred and thirty-one.

40

Summons—Case No. 149433.

Address of Defendant
571 Central Ave.

FIRST DISTRICT COURT
of Newark, N. J.

10

149433

SUMMONS ON CONTRACT

Blanchard Securities Inc.

vs.

Bonnell Motor Car Co. Inc. and
Hillas Motor Car Company

20

Demand	\$333.33
Summons	2.50
Mileage	.16
Listing Fee	1.50

Returnable April 16, 1931

Saul & Joseph E. Cohn,
972 Broad St., Newark, N. J.
Attorney for Plaintiff.

30

Summons and State of Demand

To the Defendant:

TAKE NOTICE, that the plaintiff demands that the defendant shall file and serve written specifications of defenses intended to be made in said action on or before the time specified for appearance in the process issued in said cause.

40

Saul & Joseph E. Cohn
Plaintiff's Attorney.

Summons—Case No. 149433.

10 I served the within summons and state of demand April 6, 1931 on Alex Stair he being Sec. to Both Def. of the within named defendants Bonnell Motor Car Co. & Hillas Motor Car Co. by reading it to him and giving him a copy thereof.

Frank McNellen
Sergeant-at-Arms
Constable

20

30

40

State of Demand—Case No. 149433.

State of Demand.

Filed April 1, 1931.

FIRST DISTRICT COURT OF THE CITY
OF NEWARK.

10

BLANCHARD SECURITIES, INC., a corporation of New Jersey,
Plaintiff,

vs.

BONNELL MOTOR CAR CO. INC. and
HILLAS MOTOR CAR COMPANY,
both corporations of New Jersey,
Defendants.

On Contract.

State of Demand.

20

The plaintiff demands of the defendants the sum of Five Hundred Dollars, for that and says:

1. On October 23rd, 1925, the plaintiff and the defendant, Bonnell Motor Car Co. Inc., entered into a certain indenture of lease, whereby the plaintiff leased premises consisting of a one-story brick service station and showcases, on a plot of ground 55 feet front and rear by 130 feet in depth, at Summit, New Jersey, located at 76-78 Franklin Place, Summit, New Jersey, to the defendant, Bonnell Motor Car Co. Inc., which lease expired on March 15, 1931.

30

2. Under date of October 25, 1927, the defendant, Bonnell Motor Car Co. Inc., sub-letted said premises to the Hillas Motor Car Company, and under said date, the Hillas Motor Car Company assumed and agreed to perform all the provisions and terms of said lease, in writing.

40

State of Demand—Case No. 149433.

10 3. The aforementioned lease between the Blanchard Securities, Inc., and the Bonnell Motor Car Co. Inc., provided, under paragraph 10, that in the event of underletting or sub-letting, that the liability of the lessee shall not be minimized, modified or impaired by reason thereof.

4. On March 15, 1931, neither the Bonnell Motor Car Co. Inc. nor the Hillas Motor Car Company, vacated said premises, but continue in possession thereof, as a holder over tenant, and by reason of said possession by them, this plaintiff demands rent for the period beginning March 15th to April 15th, 1931 in the sum of \$333.33.

20 5. Plaintiff has repeatedly demanded payment thereof, but payment has been refused.

Plaintiff claims judgment in the sum of \$333.33 together with interest and costs of suit.

SAUL and JOSEPH E. COHN,
Attorneys for Plaintiff.

30

40

Order—Case No. 149433.

Order.

Filed July 16, 1931.

FIRST DISTRICT COURT OF THE CITY
OF NEWARK.

10

BLANCHARD SECURITIES, INC., a cor-
poration of New Jersey,
Plaintiff,

vs.

THE BONNELL MOTOR CAR CO. INC.,
and HILLAS MOTOR CAR COM-
PANY, both corporations of New
Jersey,

Defendants.

On Contract.
Order.

20

It appearing that the summons and state of demand in the above-entitled cause erroneously named the defendant, The Bonnell Company, a corporation of New Jersey, formerly Bonnell Motor Car Co. Inc., as Bonnell Motor Car Co. Inc. and that said defendant has appeared generally in this case and has submitted to the jurisdiction of this court, and upon reading the consent hereunto annexed, it is on this 16th day of July, 1931, on motion of Saul and Joseph E. Cohn, attorneys of plaintiff,

30

ORDERED that the summons and state of demand be and the same is hereby amended to read "The Bonnell Company, a corporation of New Jersey, formerly Bonnell Motor Car Co., Inc.," in the place and stead of "Bonnell Motor Car Co., Inc."; and it is further

40

Order—Case No. 149433.

10 ORDERED that said cause be hereafter designated
as "Blanchard Securities, Inc., a corporation of
New Jersey, plaintiff, *vs.* The Bonnell Company,
a corporation of New Jersey, formerly Bonnell
Motor Car Co., Inc., and Hillas Motor Car Co.,
a corporation of New Jersey, defendants."

CECIL H. MACMAHON,
Judge.

We hereby consent to the entry of the foregoing
order.

20 FRANK W. LONG,
Attorney for Bonnell Company and
Hillas Motor Car Co.

30

40

Transcript of Clerk's Docket—Case No. 150311.

TRANSCRIPT OF CLERK'S DOCKET.

No. 150311.

I, Louis Hecht, Clerk of the First District Court of the City of Newark, in the County of Essex and State of New Jersey, do hereby certify that the following is a true copy of the record and proceedings in the case of Blanchard Securities, Inc., *vs.* Bonnell Company, a corp. of N. J., formerly Bonnell Motor Car Co., Inc., and Hillas Motor Car Company, a corporation of New Jersey, held in the First District Court of the City of Newark, in the County of Essex and State of New Jersey, as taken from the First District Court Docket No. 311, page No. 150311.

10

20

LOUIS HECHT,
Clerk.

(SEAL)

Dated July 21st, 1931.

First District Court of the City of Newark, in the County of Essex and State of New Jersey.

I, Cecil H. MacMahon, Judge of the First District Court of the City of Newark, in the County of Essex, and State of New Jersey, do hereby certify that the aforesaid court is a court of record, that Louis Hecht, whose name is subscribed to the preceding transcript, is the Clerk of the First District Court of the City of Newark, County of Essex, and State of New Jersey, and that full faith and credit are due to his official acts.

30

40

Transcript of Clerk's Docket—Case No. 150311.

Witness my hand at Newark, N. J.,
 this twenty-first day of July, A. D.
 (SEAL) nineteen hundred and thirty-one.

CECIL H. MACMAHON,
 Judge.

10

First District Court of the City of Newark, in the
 County of Essex, and State of New Jersey.

I, Louis Hecht, Clerk of the First District Court
 of the City of Newark, in the County of Essex
 and State of New Jersey, do hereby certify that
 the aforesaid court is a court of record, that
 Honorable Cecil H. MacMahon, whose name is
 subscribed to the preceding certificate is the Judge
 of the First District Court of the City of Newark,
 in the County of Essex and State of New Jersey
 and that the signature of said Judge is genuine.

20

In testimony whereof I have set my
 hand and affixed the seal of said
 (SEAL) Court this twenty-first day of July,
 A. D. nineteen hundred and thirty-
 one.

30

LOUIS HECHT,
 Clerk.

40

Transcript of Clerk's Docket—Case No. 150311.

Transcript of Clerk's Docket.

FIRST DISTRICT COURT.

NEWARK, N. J.

BLANCHARD SECURITIES, INC., a corporation of New Jersey,
Plaintiff,

vs.

BONNELL COMPANY, a corporation of New Jersey, formerly Bonnell Motor Car Co., Inc., and HILLAS MOTOR CAR COMPANY, a corporation of New Jersey,
Defendants.

10

20

Saul & Joseph E. Cohn, Pltf.'s Attys.

PLTF.'S COSTS.

Summons\$2.50 Apr. 21
Listing 1.50 Apr. 30
Mileage16
Appeal bond 1.00 7/21

30

571 Central Ave.

A state of demand was filed, and a summons in the above-stated cause was issued on the twenty-first day of April, 1931, returnable on the first day of May, 1931, wherein the plaintiff demands of defendant the sum of Five Hundred Dollars.

40

Transcript of Clerk's Docket—Case No. 150311.

The summons was served and returned as follows:

10 I served the within summons April 23, 1931 on R. D. Chaplin, he being the Vice President of said Bonnell Company & Hillas Motor Car Company by reading it to him and giving him a copy thereof.

FRANK McNELLEN,
Sergeant-at-Arms.

	May 1/31.	This cause was adjourned to May 21, June 25.
	May 21/31.	Specification of defenses filed.
20	June 25/31.	The plaintiff and defendant appeared. By consent this cause marked "Reserved."
	July 7/31.	The evidence being closed, the Court rendered judgment in favor of the defendants and against the plaintiff with costs, whereupon judgment is entered in favor of the defendants and against the plaintiff with costs.
30	July 17/31.	Notice of appeal filed.
	July 21/31.	Appeal bond filed.

Summons—Case No. 150311.

Summons.

ESSEX COUNTY,
THE STATE OF NEW JERSEY. } SS.:

To any Constable of said County, or
to the Sergeant-at-Arms of the First
(SEAL) District Court of the City of Newark. 10

SUMMON Bonnell Company, a corpo-
ration of New Jersey, formerly Bon-
nell Motor Car Co. Inc., and Hillas Motor Car
Company, a corporation of New Jersey to appear
before the First District Court of the City of
Newark to be held at the City Hall Annex, Third
Floor, Rear of City Hall, between Green and
Franklin streets, in said City, on the first day of 20
May, Nineteen Hundred and Thirty-one, at Ten
o'clock in the forenoon, to answer unto Blanchard
Securities Inc. a corporation of New Jersey in an
action upon Contract wherein the plaintiff de-
mands from the defendant Five Hundred Dollars.
Hereof fail not.

WITNESS, CECIL H. MACMAHON, ESQ., Judge of
said Court at Newark, as aforesaid, the twenty-
first day of April in the year One Thousand Nine 30
Hundred and Thirty-one.

LOUIS HECHT,
Clerk.

Summons—Case No. 150311.

#2

Address of Defendant
360 Central Ave.

10

FIRST DISTRICT COURT
150311 of Newark, N. J.

SUMMONS ON CONTRACT

BLANCHARD SECURITIES INC. a corp.
of N. J.

vs.

BONNELL COMPANY, a corp. and HILLAS
MOTOR COMPANY, a corp.

20

Demand	\$333.33
Summons	2.50
Mileage	.16
Listing Fee	1.50

Returnable May 1, 1931

Saul & Jos. E. Cohn, 972 Broad St.
Newark, N. J.

Attorney for Plaintiff.

30

SUMMONS AND STATE OF
DEMAND

To the Defendant:

TAKE NOTICE, that the plaintiff de-
mands that the defendant shall file
and serve written specifications of
defenses intended to be made in said
action on or before the time specified
for appearance in the process issued
in said cause.

40

Saul & Jos. E. Cohn
Plaintiff's Attorney.

Summons—Case No. 150311.

I served the within summons and state of demand April 23, 1931 on R. D. Chaplin he being Vice President of the within named defendants Bonnell Co. & Hillas Motor Car Co. by reading it to him and giving him a copy thereof.

10

FRANK McNELLEN,
Constable.

20

30

40

State of Demand—Case No. 150311.

State of Demand.

Filed April 21, 1931.

FIRST DISTRICT COURT OF THE
CITY OF NEWARK.

10

BLANCHARD SECURITIES, INC., a corporation of New Jersey,
Plaintiff,

vs.

BONNELL COMPANY, a corporation of New Jersey, formerly Bonnell Motor Car Co. Inc., and
HILLAS MOTOR CAR COMPANY, a corporation of New Jersey,
Defendants.

On Contract.
State of Demand.

20

The plaintiff demands of the defendants, the sum of Five Hundred Dollars, for that and says:

30

1. On October 23, 1925, the plaintiff and the defendant Bonnell Motor Car Company, Inc. (having changed its name and now known as Bonnell Company) entered into a certain indenture of lease, whereby the plaintiff leased premises consisting of a one-story brick service station and show room, on a plot of ground 55 feet front and rear by 130 feet in depth, at Summit, New Jersey, located at 76-78 Franklin Place, Summit, New Jersey, to the defendant, Bonnell Motor Car Co. Inc. (having changed its name and now known as Bonnell Company) which lease expired on March

40

State of Demand—Case No. 150311.

2. Under date of October 25, 1927, the defendant, Bonnell Motor Car Co. Inc., (having changed its name and now known as Bonnell Company) sub-letted said premises to the Hillas Motor Car Company, and under said date, the Hillas Motor Car Company assumed and agreed to perform all the provisions and terms of said lease, in writing.

10

3. The aforementioned lease between the Blanchard Securities, Inc., and the Bonnell Motor Car Co. Inc., (having changed its name and now known as Bonnell Company) provided, under paragraph 10, that in the event of under-letting or sub-letting, that the liability of the lessee shall not be minimized, modified or impaired by reason thereof.

20

4. On March 15, 1931, neither the Bonnell Motor Car Co. Inc., (having changed its name and now known as Bonnell Company) nor the Hillas Motor Car Company, vacated said premises, but continue in possession thereof, as a hold-over tenant, and by reason of said possession by them, this plaintiff demands rent for the period beginning April 15, 1931 to May 15, 1931, in the sum of \$333.33.

30

5. Plaintiff has repeatedly demanded payment thereof, but payment has been refused.

Plaintiff claims judgment in the sum of \$333.33 together with interest and costs of suit.

SAUL and JOSEPH E. COHN,
Attorneys for Plaintiff.

40

*Specification of Defenses—Case No. 150311.***Specification of Defenses.**

Filed May 21, 1931.

FIRST DISTRICT COURT OF THE
CITY OF NEWARK.

10

BLANCHARD SECURITIES, INC., a corporation of New Jersey,
Plaintiff,

vs.

BONNELL COMPANY, a corporation of New Jersey, and HILLAS
MOTOR CAR COMPANY, a corporation of New Jersey,
Defendants.

20

On Contract.

Specification of
Defenses.

Pursuant to the demand for specification of defenses, the defendants say:

1. They deny that they are hold-over tenants as alleged in the state of demand herein.

30

2. They deny that they continued in possession after March 15, 1931, as stated in the demand herein.

3. They deny that there is anything due from the defendants to the plaintiff as stated in the demand herein.

FRANK W. LONG,
Attorney for Defendants.

40

Transcript of Clerk's Docket—Case No. 151974.

TRANSCRIPT OF CLERK'S DOCKET.

#151974.

I, Louis Hecht, Clerk of the First District Court,
of the City of Newark, in the County of Essex 10
and State of New Jersey, do hereby certify that
the following is a true copy of the record and pro-
ceedings in the case of Blanchard Securities Inc.
vs. Bonnell Company, a corp. of N. J. formerly
Bonnell Motor Car Co. Inc. and Hillas Motor Car
Co. a corp. of N. J. as taken from the First District
Court Docket #315, page #151974.

LOUIS HECHT,
Clerk. 20

(SEAL)

Dated July 21st, 1931.

First District Court of the City of Newark, in the
County of Essex, and State of New Jersey.

I, Cecil H. MacMahon, Judge of the First Dis-
trict Court of the City of Newark, in the County
of Essex, and State of New Jersey, do hereby
certify that the aforesaid court is a court of 30
record, that Louis Hecht, whose name is sub-
scribed to the preceding transcript, is the Clerk
of the First District Court of the City of Newark,
County of Essex, and State of New Jersey, and
that full faith and credit are due to his official
acts.

Witness my hand at Newark, N. J.,
this twenty-first day of July, A. D.
nineteen hundred and thirty-one.

CECIL H. MACMAHON,
Judge. 40

Transcript of Clerk's Docket—Case No. 151974.

First District Court of the City of Newark, in the
County of Essex, and State of New Jersey.

10 I, Louis Hecht, Clerk of the First District
Court of the City of Newark, in the County of
Essex and State of New Jersey, do hereby cer-
tify that the aforesaid court is a court of record,
that Honorable Cecil H. MacMahon, whose name
is subscribed to the preceding certificate is the
Judge of the First District Court of the City of
Newark, in the County of Essex and State of
New Jersey and that the signature of said Judge
is genuine.

20 In testimony whereof I have set my
hand and affixed the seal of said court
(SEAL) this twenty-first day of July, A. D.
nineteen hundred and thirty-one.

LOUIS HECHT,
Clerk.

30

40

Transcript of Clerk's Docket—Case No. 151974.

Transcript of Clerk's Docket.

FIRST DISTRICT COURT.

NEWARK, N. J.

BLANCHARD SECURITIES, INC., a corporation of New Jersey,
Plaintiff,

vs.

BONNELL COMPANY, a corp. of N. J.,
formerly Bonnell Motor Car
Co., Inc., and HILLAS MOTOR CAR
COMPANY, a corporation of New
Jersey,
Defendants.

10

20

SAUL & JOS. E. COHN
Pltf.'s Attys.

PLTF.'s COSTS.

Summons	\$2.50	May 29
Listing	1.50	June 10
Mileage	.16	
Bond	1.00	7/21

30

Central Ave. & 12th St.

A state of demand was filed, and a summons in the above-stated cause was issued on the twenty-ninth day of May, 1931, returnable on the eleventh day of June, 1931, wherein the plaintiff demands of defendant the sum of Five Hundred Dollars.

40

Transcript of Clerk's Docket—Case No. 151974.

The summons was served and returned as follows:

10 I served the within summons June 1, 1931 on Mr. Bonnell he being the President of said Bonnell Company, Inc. by reading it to him and giving him a copy thereof.

JACOB SCHONBRUN,
Constable.

20 I served the within summons June 1st, 1931 on Mr. Hillas he being the President of said Hillas Motor Car Co. Inc. by reading it to him and giving him a copy thereof.

JACOB SCHONBRUN,
Constable.

June 11/31. This Cause was adjourned to June 25.
 “ 25/31. Specification of defenses filed.
 “ 25/31. The plaintiff and defendant appeared. By consent this cause marked “Reserved.”
 30 July 7/31. The evidence being closed, the Court rendered judgment in favor of the defendants and against the plaintiff with costs, whereupon judgment is entered in favor of the defendants and against the plaintiff with costs.
 “ 17/31. Notice of appeal filed.
 “ 21/31. Appeal Bond filed.
 40

Summons—Case No. 151974.

Summons.

COUNTY OF ESSEX, }
STATE OF NEW JERSEY, } ss.:

To any Constable of said County or
to the Sergeant-at-Arms of the First
(SEAL) District Court of the City of Newark. 10

SUMMON Bonnell Company, a corp.
of New Jersey, formerly Bonnell Motor
Car Co. Inc. and Hillas Motor Car Company,
a corp. of New Jersey to appear before the
First District Court of the City of Newark to be
held at the City Hall Annex, Third Floor, Rear
of City Hall, between Green and Franklin
Street, in said City, on the eleventh day of June 20
Nineteen Hundred and thirty-one, at Ten o'clock
in the forenoon, to answer unto Blanchard Se-
curities, Inc. a corporation of New Jersey in an
action upon Contract wherein the Plaintiff de-
mands from the Defendant Five hundred dollars.
Hereof fail not.

WITNESS, CECIL H. MACMAHON, Esq., Judge of
said Court at Newark, as aforesaid, the twenty-
ninth day of May in the year One Thousand Nine 30
Hundred and thirty-one.

LOUIS HECHT,
Clerk.

Summons—Case No. 151974.

Address of Defendant
Central Avenue

FIRST DISTRICT COURT
of Newark, N. J.

10

151974

SUMMONS ON CONTRACT

Blanchard Securities Inc. a corp.

vs.

Bonnell Company, et als.

20

Demand	\$333.33
Summons	2.50
Mileage	.16
Listing Fee	1.50

Returnable June 11th, 1931

S. & J. E. Cohn, 972 Broad Street
Newark, N. J.
Attorney for Plaintiff.

30

Summons and State of Demand

To the Defendant:

TAKE NOTICE, that the plaintiff demands that the defendant shall file and serve written specifications of defenses intended to be made in said action on or before the time specified for appearance in the process issued in said cause.

40

Saul & Joseph E. Cohn,
Plaintiff's Attorney.

Summons—Case No. 151974.

I served the within summons and state of demand June 1, 1931 on Bonnell he being Pres. of the within named defendant corp. by reading it to him and giving him a copy thereof.

JACOB SCHONBRUN, 10
Constable.

Mr. Hillas being the President, of said Hillas Motor Car Co. I served the within summons and state of demand June 1st, 1931 by reading it to him and giving him a copy thereof.

JACOB SCHONBRUN, 20
Constable.

30

40

State of Demand—Case No. 151974.

State of Demand.

Filed May 29, 1931.

FIRST DISTRICT COURT OF THE CITY
OF NEWARK.

10

BLANCHARD SECURITIES, INC., a cor-
poration of New Jersey,
Plaintiff,

vs.

BONNELL COMPANY, a corporation
of New Jersey, formerly Bon-
nell Motor Car Co., Inc., and
HILLAS MOTOR CAR COMPANY, a
corporation of New Jersey,
Defendants.

20

On Contract.
State of Demand.

The plaintiff demands of the defendants the sum
of Five Hundred Dollars, for that and says:

30

1. On October 23, 1925, the plaintiff and the
defendant Bonnell Motor Car Company, Inc. (hav-
ing changed its name and now known as Bonnell
Company) entered into a certain indenture of
lease, whereby the plaintiff leased premises con-
sisting of a one-story brick service station and
show room, on a plot of ground 55 feet front and
rear by 130 feet in depth, at Summit, New Jersey,
located at 76-78 Franklin Place, Summit, New
Jersey, to the defendant, Bonnell Motor Car Co.
Inc., (having changed its name and now known as
Bonnell Company) which lease expired on March
15, 1931.

40

State of Demand—Case No. 151974.

2. Under date of October 25, 1927, the defendant, Bonnell Motor Car Co. Inc., (having changed its name and now known as Bonnell Company) sub-letted said premises to the Hillas Motor Car Company, and under said date, the Hillas Motor Car Company assumed and agreed to perform all the provisions and terms of said lease, in writing.

10

3. The aforementioned lease between the Blanchard Securities, Inc., and the Bonnell Motor Car Co., Inc., (having changed its name and now known as Bonnell Company) provided, under paragraph 10, that in the event of underletting or sub-letting, that the liability of the lessee shall not be minimized, modified or impaired by reason thereof.

20

4. On March 15, 1931, neither the Bonnell Motor Car Co. Inc., (having changed its name and now known as Bonnell Company) nor the Hillas Motor Car Company, vacated said premises, but continue in possession thereof, as a holdover tenant, and by reason of said possession by them, this plaintiff demands rent for the period beginning May 15th, 1931 to June 15th, 1931, in the sum of \$333.33.

30

5. Plaintiff has repeatedly demanded payment thereof, but payment has been refused.

Plaintiff claims judgment in the sum of \$333.33 together with interest and costs of suit.

SAUL and JOSEPH E. COHN,
Attorneys for Plaintiff.

40

*Specification of Defenses—Case No. 151974.***Specification of Defenses.**

Filed June 25, 1931.

FIRST DISTRICT COURT OF THE CITY
OF NEWARK.

10

BLANCHARD SECURITIES, INC., a corporation of New Jersey,
Plaintiff,

vs.

BONNELL COMPANY, a corporation of New Jersey, formerly Bonnell Motor Car Co., Inc., and
20 HILLAS MOTOR CAR COMPANY, a corporation of New Jersey,
Defendants.

On Contract.

Specification of
Defenses.

Pursuant to the demand for specification of defenses, the defendants say:

30

1. That they deny that they are holdover tenants as alleged in the state of demand herein.

2. They deny that they continued in possession after March 15, 1931, as stated in the demand herein.

3. They deny that there is anything due from the defendants to the plaintiff as stated in the demand herein.

FRANK W. LONG,
Attorney for Defendants.

40

*Testimony.***Testimony.**FIRST DISTRICT COURT OF THE CITY
OF NEWARK.

BLANCHARD SECURITIES, INC., <i>Plaintiff,</i> <i>vs.</i> BONNELL MOTOR CAR COMPANY, INC., and HILLAS MOTOR CAR COMPANY, <i>Defendants.</i>	10
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June 25, 1931.

20

Before Honorable Cecil H. MacMahon, J.

Appearances:

Saul and Joseph E. Cohn, Esqs., by Michael Silver, Esq., for Plaintiff.

Frank W. Long, Esq., for Defendants.

Mr. Long: If your Honor please, I desire to try the first case on the list.

The Court: What is your case?

30

Mr. Long: Blanchard Securities, Inc., *vs.* Bonnell Motor Car Company, Inc., and Hillas Motor Car Company. There are three cases that have the same title, but the others will depend on the outcome of the first case.

The Court: Your case is Number 150093, is that correct?

Mr. Long: That is correct, yes.

The Court: Do you desire to try that case alone?

40

William L. Blanchard, for Plaintiff, direct.

Mr. Long: Yes. It is just possible we may be able to stipulate on the record the second and third cases.

10 The Court: The other side may stipulate the same testimony may be used in the other cases?

Mr. Silver: There are three cases, Blanchard Securities, Inc. *vs.* Bonnell Motor Car Company, Inc., and the Hillas Motor Car Company. In the first suit, they are suing for rent for the month of March, \$333.33.

The Court: Who is the attorney in that case?

Mr. Silver: Saul and Joseph E. Cohn represent the plaintiff.

The Court: That is case 150093, is that correct?

20 Mr. Silver: I have no number of the case before me.

The Court: Who is Mr. Long representing, the defendants?

Mr. Long: I represent the defendants.

The Court: The first case on the list is No. 149433.

Mr. Long: That is correct.

30 The Court: That is the case I will try. I am going to try the case of Blanchard Securities, Inc. *vs.* Bonnell Motor Car Company, Inc., and Hillas Motor Car Company, No. 149433. Now proceed.

WILLIAM L. BLANCHARD, sworn on behalf of plaintiff, testified as follows:

Direct examination by Mr. Silver:

Q. Mr. Blanchard, are you associated with the Blanchard Securities, Inc.? A. I am President.

William L. Blanchard, for Plaintiff, direct.

Q. Did your company enter into a written lease with the Bonnell Motor Car Company for the premises located in Summit, New Jersey? A. They did.

Q. I show you a lease dated October 23, 1925, between the Blanchard Securities, Inc., and the Bonnell Motor Car Company, and ask you if that is the lease? A. That is the lease.

10

Mr. Silver: I offer the lease in evidence.

Mr. Long: No objection.

(Lease bearing dated October 23, 1925, between the Blanchard Securities, Inc., and the Bonnell Motor Car Company, Inc., received in evidence and marked Exhibit P. 1.)

20

Q. I show you a letter dated October 25, 1927, signed by the Hillas Motor Car Company addressed to Blanchard Securities, Inc., and ask you if that was received by the Blanchard Securities, Inc.? A. It was.

The Court: Show the letter to the other side.

Mr. Long: Is that a copy?

Mr. Silver: That is the original.

30

The Court: Let the letter be marked in evidence.

(Letter bearing date October 25, 1927, signed by Hillas Motor Car Company, and addressed to Blanchard Securities, Inc., received in evidence and marked Exhibit P. 2.)

Mr. Silver: There was an assumption agreement. I wonder if Mr. Long will agree such an agreement was made by the Hillas Motor Car Company to the Bonnell Motor Company? Will you admit that?

40

William L. Blanchard, for Plaintiff, cross.

Mr. Long: What do you mean, agreement for the payment of rent?

Mr. Silver: Yes.

10 The Court: I have just been handed Exhibit P. 2 wherein it states the Bonnell Motor Car Company have sub-let to the Hillas Motor Car Company the premises for the full term of the lease, and the Hillas Motor Car Company does hereby assume the provisions of the lease. That is in.

Q. Mr. Blanchard, has the Blanchard Securities, Inc., received rent for the premises leased for the months beginning March 15th to April 15, 1931?

20 A. No, sir.

Q. Were the premises occupied on March 15, 16 and 17, 1931? A. They were.

Cross examination by Mr. Long:

Q. By whom were they occupied? A. By the Hillas Motor Car Company.

Q. For the full term? For the period between March 15th and April 15th? A. Yes, and up until May 20th.

30 Q. I show you a letter dated February 10th addressed to Leahy Motor Car Company, and signed by Isaac C. Blanchard. Is that the letter which came from your office? A. Yes, sir.

The Court: Letter in evidence.

(Letter bearing date February 10th, addressed to Leahy Motor Car Company, signed by Isaac C. Blanchard, received in evidence and marked Exhibit D. 1.)

40 Q. You knew that the Hillas Motor Car Company had a lease with the Leahy Motor Car Company,

William L. Blanchard, for Plaintiff, cross.

did you not? A. No, sir, my office has no record of any such lease.

Q. I show you a letter dated April 18, 1929, addressed to the Hillas Motor Car Company and signed by W. L. Blanchard, and ask you if that is your signature? A. That is my signature, yes, sir.

10

Q. Would you say, then, that you did not know? A. I said there was no record in our office of any assignment from the Hillas Motor Car Company to the Leahy Motor Car Company.

Q. I asked you if you knew that the Hillas Motor Car Company had sub-let to the Leahy Motor Car Company? A. I knew they had made several sub-lettings.

20

The Court: Letter in evidence.

(Letter bearing date April 18, 1929, addressed to Hillas Motor Car Company and signed by W. L. Blanchard, received in evidence and marked Exhibit D. 2.)

Q. Did you have any conversation with either Mr. Hillas or Mr. Starr of the Hillas Motor Car Company in connection with the ending of the lease March 15th? A. I was in touch with the Hillas Motor Car Company. I don't know as I have ever met Mr. Hillas or Mr. Starr, I believe the other gentleman's name is, but I called on the phone several times, and during the month of March, 1931, for the March rent.

30

Q. And did you get it? A. I did not.

Q. How much did you get? A. I got a check on March 24th for whatever half of the \$333.33 is.

Q. Is that it (handing witness paper)? A. That is it.

40

Robert M. Hillas, for Defendants, direct.

Q. And the check was paid? A. Yes, the check is dated March 24th.

10 Mr. Long: I offer the check in evidence.
(Check bearing date March 24th received in evidence and marked Exhibit D. 3.)
Mr. Silver: Plaintiff rests.

ROBERT M. HILLAS, called as a witness on behalf of defendant, being duly sworn, testified as follows:

Direct examination by Mr. Long:

20 Q. Mr. Hillas, what is your business? A. The automobile business.

Q. Are you president of the Hillas Motor Car Company? A. Yes.

Q. You have a lease between the Hillas Motor Car Company and John J. Leahy? A. Yes.

Q. I show you this paper—

30 The Court: Put it in evidence.
(Lease between the Hillas Motor Car Company and John J. Leahy, received in evidence and marked Exhibit D. 4.)

Q. Did you have any conversation prior to March 15, 1931, with anyone in the Blanchard Securities, Inc.? A. I did.

Q. You did? A. Yes.

Q. With whom did you have that conversation? A. Mr. Clifford Blanchard.

40 Q. What was the conversation? A. He called me and asked me whether we were going to re-

Robert M. Hillas, for Defendants, cross.

new the lease when our lease expired, and I said we would not.

Q. Was there any other conversation at that time? A. Not that I can recall.

Q. Did you have any further conversation at any time with him? A. No.

10

Q. (By the Court.) What lease are you talking about? A. The original lease that would bind us as a tenant of the Blanchard Securities, Inc.

Q. (By the Court.) When did that lease expire? A. March 15, 1931. That would end the five years.

Q. (By the Court.) You told him you did not know? A. I told him we were not going to renew it.

Q. Did you have possession of the premises March 15th? A. Not to my knowledge.

20

Q. Do you know who did occupy the premises March 15th? A. Yes, the Leahy Motor Car Company.

Cross examination by Mr. Silver:

Q. Mr. Hillas, do you know what date it was you had the conversation with Clifford Blanchard?

A. Approximately late in the fall, around December 1st.

30

Q. When did the lease you gave to the Leahy Motor Car Company expire?

The Court: The lease speaks for itself.

Q. You didn't know Mr. Leahy was in possession of the premises for the full time of his lease with your company? A. Yes.

40

Alexander Starr, for Defendants, direct.

Mr. Silver: That is all. No further questions.

10 ALEXANDER STARR, called as a witness on behalf of the defendant, being duly sworn, testified as follows:

Direct examination by Mr. Long:

Q. Mr. Starr, you are connected with the Hillas Motor Car Company? A. As secretary-treasurer.

Q. Did you have occasion at any time to call up Mr. Blanchard's office in connection with the lease in question? A. No, I never called their office. They called me.

Q. Can you tell us about when the last conversation was you had with their office? A. Yes, they had called me several times requesting the rent. I said to Mr. Feldman—I believe he was the office man of the Blanchard Securities, Inc., who asked me for the rent, and I told him I would send it to him as soon as I could. I said, "You understand, of course, that will be for half a month."

30 He said, "Just a minute; let me look at my records," and he did. The next minute he said, "That's all right—"

Mr. Silver: I object to what Feldman said.

The Court: Objection sustained.

Q. Did you talk to Mr. Feldman before in the office? A. I believe I did.

John Leahey, for Defendants, direct.

Q. Aren't you sure whether you did or did not?
A. Well, I am not sure, because I did not ask his name, but I am pretty positive it was Mr. Feldman on account of his English style. I recognized him by his speech.

Q. Did he tell you what his position was with the company? A. No.

Q. Did you know what his position was? A. I assumed bookkeeper and office man.

Q. What was the conversation that you had?

10

The Court: That has been objected to and the objection has been sustained.

Mr. Long: That is all.

Mr. Silver: No cross examination.

20

JOHN LEAHEY, called as a witness on behalf of the defendant, being duly sworn, testified as follows:

Direct examination by Mr. Long:

Q. Mr. Leahey, did you have possession of the premises at Summit according to the terms of a lease between you and the Hillas Motor Car Company? A. Yes, sir.

30

Q. When did your term expire? A. With Mr. Hillas?

Q. Yes. A. March 31st.

Q. (By Mr. Silver.) What year, please? A. 1931.

Q. I show you a letter dated February 18, 1931, signed by Isaac Blanchard, and your signature appearing on it, marked P. 1. Is that your signature? A. Yes, sir.

40

John Leahey, for Defendants, direct.

The Court: It is in evidence. You don't have to prove it again.

Mr. Long: I wanted to cross examine on it.

10 The Court: Your own witness? All right, go on.

Q. According to the terms of this letter or paper writing, did you occupy the premises?

The Court: Yes, they stayed there until March 31st. Nobody is grumbling about that. He wants to know who stayed there after.

20 Mr. Long: I am trying to find out.

Q. (By the Court.) Who stayed there after March? A. I stayed there.

Q. And up until what time did you stay there?

A. About 19th or 20th, I believe.

Q. And then what did you do that time? A. I closed up the business and turned the key into the Blanchard office.

30 Q. Under what arrangement did you stay from April 1st, 1931? A. Around March 15th, Mr. Blanchard, Sr., came up and I signed a supplement to this. There seemed to be a dispute. My idea was the lease expired the 31st and he told me it should have expired the 15th. He said there was a dispute and would I release him from it and not pay any rent until he took possession of the building.

Q. You still stayed in possession but was not to pay him any rent? A. Yes.

40 Q. Did you make any new lease with the Blanchard Securities, Inc.? A. No, only what I signed on the duplicate of this copy.

John Leahey, for Defendants, cross.

Cross examination by Mr. Silver:

Q. The letter marked Exhibit D. 1, you cancelled that agreement with the Blanchard Securities, Inc.? A. I just forget the wording of it. I signed it over, using Mr. Blanchard's words, until he takes possession of the building. 10

By the Court:

Q. You signed something, did you? A. Yes.

The Court: Produce it, somebody.

By Mr. Silver:

Q. Is this your signature (handing witness paper)? A. Yes, sir. 20

By the Court:

Q. Is that what you have just been referring to? A. Yes.

The Court: Put it in evidence.

(Paper received in evidence and marked Exhibit D. 5.)

Mr. Long: May I see that, please? 30

Q. You didn't pay any rent for the month of April, 1931? A. No.

Q. Mr. Blanchard told you at that time he could not have you as a tenant? A. That he could not have me as a tenant?

Q. Yes, by reason of certain questions about the premises? A. Yes.

Q. And you were satisfied and you signed that paper? A. I realized what I signed. There was a dispute, that's all. I knew about it. 40

John Leahey, for Defendants, cross.

Q. And it is dated March 26th? A. Yes.

Q. That is the first time you ever saw Mr. Blanchard? A. Yes.

10 Q. (By Mr. Long.) Did he tell you what the dispute was, Mr. Leahy?

The Court: What difference does it make?

Mr. Long: I am not so sure about it.

Mr. Silver: The rights ceased March 31st, didn't they?

Mr. Long: Yes.

Mr. Silver: Their rights expired March 15th.

20 The Court: Never mind. Their rent ceased March 31st.

Mr. Silver: Their lease expired March 15th.

The Court: March 15th, if you like. They say it expired on March 15th, and they are not liable for the rent.

Mr. Long: That is my contention.

30 The Court: Mr. Leahy said, "I stayed there," apparently not thinking he had to pay any rent, is that so?

Mr. Long: No; Leahy stayed there. When Mr. Leahy got this letter permitting him to stay there after April 1st, he immediately communicated with the Hillas Motor Car Company, and, of course, they knowing that he was a tenant up to April 1st of the Blanchard Securities, Inc. did not attempt to put him out because he had a lease and a perfect right to stay.

40 The Court: Who does he expect to pay rent to?

William L. Blanchard, In Rebuttal, direct—cross.

Mr. Long: Under the terms of the lease he wasn't to pay any rent.

The Court: All right, he didn't expect to pay any rent.

Mr. Silver: That is all from this witness.

10

Mr. Long: That is our case.

The Court: Defendant rests.

WILLIAM L. BLANCHARD, recalled in rebuttal on behalf of plaintiff, testified as follows:

Direct examination by Mr. Silver:

Q. Mr. Blanchard, do you know Mr. Leahy? A. I met Mr. Leahy on March 26th. 20

Q. Did you ever tell Mr. Leahy he could stay in those premises without paying any rent? A. No, sir.

Q. Did you ever rent him the premises? A. No, sir; I got him to cancel the contract he had with my son because the Hillas Motor Car Company had not gone out on March 15th, but had notified me on March 24th that they owed me up to March 15th and they paid me a half month's rent. I wrote them back I would hold them for the rent for another year. 30

Cross examination by Mr. Long:

Q. You saw this letter signed by Clifford Blanchard. A. It is not signed by Clifford Blanchard.

The Court: The papers are here and what is in them speaks for itself. 40

Certificate of Stenographer.

Q. (By the Court.) How long have you been connected with the real estate business, Mr. Blanchard? A. Forty-eight years.

10 Mr. Silver: That is our case.

Mr. Long: I would like to have your Honor adjourn the other two cases until after you have made a decision in this case.

Mr. Silver: That is satisfactory to us.

The Court: All other cases will be marked "reserved."

20 I, William E. Davenport, a stenographer duly appointed and sworn to report stenographically the evidence given before the First District Court of the City of Newark, N. J., in the case of Blanchard Securities, Inc., plaintiff, *vs.* Bonnell Motor Car Company, Inc., and Hillas Motor Car Company, defendants, do hereby certify that the foregoing is a true and correct transcript of the evidence given on the twenty-fifth day of June, 1931, before the Honorable Cecil H. MacMahon, Judge of the First District Court, in said matter.

30 WM. E. DAVENPORT.

Certificate of District Court Judge.

I, CECIL H. MACMAHON, Judge of the First District Court of the City of Newark, New Jersey, do hereby certify that the foregoing is a true and correct transcript of the proceedings had and testimony given before me upon the trial of the case of Blanchard Securities, Inc., plaintiff, against The Bonnell Company, formerly Bonnell Motor Car Co. Inc. and Hillas Motor Car Co., Inc., defendants, which case was formerly entitled as Blanchard Securities, Inc., plaintiff, against The Bonnell Motor Car Co. Inc. and Hillas Motor Car Co. Inc., defendants, docket No. 149433, on the 25th day of June, 1931, as certified to by William E. Davenport, the stenographer designated and sworn by me to report such proceedings and testimony, said designation having been made by me at the request of the plaintiff pursuant to the statute in such case made and provided, and I hereby certify said transcript as the state of the case to be used on the appeal in this cause.

10

20

IN WITNESS WHEREOF I have signed this certificate this 17th day of July, 1931.

CECIL H. MACMAHON,
Judge of the First District Court
of the City of Newark.

30

Attest:

LOUIS HECHT,
Clerk.

40

*Exhibit P. 1.***Exhibit P. 1.**

10 THIS INDENTURE OF LEASE, made this 23rd day of October, in the year of our Lord One Thousand Nine Hundred and Twenty-five, by and between,

BLANCHARD SECURITIES, INC., a corporation of the State of New Jersey, having its principal office in the City of Newark, County of Essex and State of New Jersey, party of the first part, hereinafter known as the Lessor, and

20 BONNELL MOTOR CAR Co., INC., a corporation of the State of New Jersey, party of the second part (hereinafter known as the Lessee).

NOW THIS INDENTURE WITNESSETH:

30 1. That the said Lessor for and in consideration of the rents, covenants and agreements hereinafter contained, mentioned and reserved on the part and in behalf of the said Lessee, its successors and assigns, to be paid, kept and performed, will erect according to the plans made by William E. Lehman, Architect, and signed by both parties and lease and farm-let unto the said Lessee, its successors and assigns, the following described premises: A one-story brick service station with showroom on a plot of ground approximately fifty-five (55) feet front and rear by one hundred and thirty (130) feet in depth at Summit, New Jersey and located at Nos. 76-78 Franklin Place, according to the plans signed by both parties and the specifications noted on said plans.

40 To HAVE AND TO HOLD, the above described premises with the improvements and appurtenances thereunto belonging, unto the said Lessee, its suc-

Exhibit P. 1.

cessors and assigns, for a period beginning on the First day of January, One Thousand Nine Hundred and Twenty-six, or at such time within a reasonable time thereafter, as said building shall be finished and ready for occupancy, said occupancy being certified to by William E. Lehman, Architect, and terminating on the Thirty-first day of December, One Thousand Nine Hundred and Thirty, in the event that possession is obtained on January First, One Thousand Nine Hundred and Twenty-six, but in the event that possession is obtained at a later date, then the period of this lease is to end five (5) years from the beginning of said occupancy.

10

The Lessee agrees to pay as rental for the said demised premises, the sum of Four Thousand Dollars (\$4,000.00) per year, payable in equal monthly installments of Three Hundred Thirty-three Dollars and Thirty-three Cents (\$333.33) on the first business day of each and every month, in advance, during the aforesaid term.

20

And yielding and paying further when due, as additional rent during the whole term, all water rents levied against the said property by the Town of Summit, County of Morris, State of New Jersey, or other interests to whom said water rent shall be payable, and also for tariffs or charges for insurance for the plate glass in the said building, to the extent of the full insurable value thereof.

30

2. The Lessee for itself, its successors and assigns, does covenant and agree to and with the Lessor, its successors and assigns as follows:

That the said Lessee shall and will during the term hereby granted, well and truly pay or cause to be paid unto the Lessor, the said money rent

40

Exhibit P. 1.

above reserved, on the days and in the manner herein limited and prescribed for the payment thereof, without any fraud, deduction or delay, according to the true intent and meaning of these presents; and that the said Lessee shall and will, during the said term of this lease, make and pay for all the ordinary and necessary repairs on the inside of the said building, and the Lessor agrees to make and pay for all the ordinary and necessary repairs needed to be made on the outside of said building and premises; and at the expiration of the tenancy, yield up the peaceable possession thereof to the Lessor, in as good repair as the same may be at the commencement thereof (wear and tear arising from the reasonable use of the same, damages by the elements excepted). PROVIDED, however, that if the yearly rent herein reserved, or any part thereof, shall be behind and unpaid, on any day of payment whenever the same ought to be paid as aforesaid, or if default shall be made in any of the covenants, conditions or agreements herein contained on the part and in behalf of the said Lessee, its successors and assigns, to be paid, kept and performed, thence and from thenceforth it shall and may be lawful for the said Lessor, its successors and assigns, to re-enter the said premises and every part thereof, and the same to have again, repossess and enjoy as in its first and former estate, anything herein contained to the contrary thereof in anywise notwithstanding. PROVIDED always that the Lessor shall not avail itself in the manner aforesaid by reason of any such default without having first given ten (10) days notice to the Lessee of its intent so to do, and the default complained of shall not have been amended, or such breach entirely removed

Exhibit P. 1.

on or before the expiration of the time specified in said notice, and provided, further, that the waiver of any default or defaults in the performance of the terms hereof shall not be construed by the parties hereto, as a waiver of any subsequent default. PROVIDED, however, that if the default complained of shall be a subject of repairs, the Lessee will within the ten day period, begin the correction or removal of such default and complete the same with all reasonable dispatch. All notices provided for under this lease may be given personally by either party to the other, or sent by registered mail to their last known address.

10

3. It is further agreed between the parties to these presents that this lease shall be subject and subordinate at all times to the lien of any mortgage or mortgages, in an amount not exceeding Thirty Thousand Dollars (\$30,000.00) now or hereafter placed on the land and buildings of which the demised premises form a part, without the necessity of any further instrument or act on the part of the Lessee to effect such subordination, provided, however, the Lessee covenants and agrees to execute and deliver upon demand, such further instrument or instruments evidencing such subordination of this lease to the lien of any such mortgage or mortgages as shall be desired, aggregating in an amount of the sum of Thirty Thousand Dollars (\$30,000.00). The expense of the execution of said subordination shall be paid by the Lessor.

20

30

4. It is expressly understood and agreed that in the event that the above demised premises or any part thereof shall be taken for public purposes by any power or authority in the State of

40

Exhibit P. 1.

10 New Jersey having the right to take the same by condemnation or eminent domain, the amount awarded as compensation for the part of the demised premises so taken, shall be paid to the Lessor, and the Lessor will pay to the Lessee, the entire amount of an award which may be paid to the said Lessor by reason of the interest of the Lessee in the said premises, and upon the making of said award by the said authority or power, this lease shall come to an end, and the Lessee agrees to immediately vacate the premises.

20 5. The said Lessee does further covenant to and with the Lessor, its successors and assigns, that if at any time during the said term herein demised, said Lessee, its successors and assigns, shall be adjudicated a bankrupt, or said Lessee shall compound all its debts or assign its entire estate or effects for the payment thereof, then this lease shall, at the option of said Lessor, cease and come to an end, after three days notice in writing of such election, which notice may be sent by mail to the said Lessee, addressed to the premises herein demised.

30 6. The Lessor, for itself, its successors and assigns, does covenant and agree to and with the said Lessee, that the said Lessee, upon payment of the rental herein contained, shall and may at all times during the said term herein granted, peaceably and quietly have, hold and enjoy the said demised premises without eviction or disturbance by any person or persons, corporation or corporations, having right to, or lawfully claiming the same or any part thereof.

40

Exhibit P. 1.

7. It is further understood and agreed that the said Lessee will during the reasonable hours of the day permit the said Lessor or its agents, to enter the said premises to examine the same and for the purpose of making repairs or alterations, or for the purpose of preserving and maintaining the same, and also to show the premises to persons wishing to purchase, and during the last six months of the demised term will permit the usual notices of "to let" or "for sale" to be placed on the walls of the demised premises and to remain thereon without hinderance or molestation.

10

8. The Lessee agrees to use the demised premises as a showroom and service station for automobiles, and to furnish covered waste cans for service station, ash cans for boiler room, a sufficient number of smoking signs, sand pails, water pails and fire extinguishers, and it further agrees to not have any open flames, forges or acetylene flames in the building, and to operate and maintain the said premises in accordance with the rules, regulations and requirements of the Town of Summit, or any other municipality of which the same may be a component part, or of the County of Morris or State of New Jersey, or any Federal Department or authority having jurisdiction over the demises premises, and agrees that at all times during the demise, the said premises will be occupied in a lawful manner.

20

30

9. It is further agreed between the parties hereto that in case the premises hereby leased shall be partially damaged by fire, the same shall be repaired as speedily as possible, at the expense of the party of the first part; that in case the damage shall be so extensive as to render the

40

Exhibit P. 1.

10 premises untenable, the rents shall cease until such time as the premises shall be in complete repair; that in case of the total destruction of the premises by fire or otherwise, the rents shall be paid up to the time of such destruction, and then and from thenceforth this lease shall cease and come to an end; and provided, however, that said damage or destruction be not caused by the carelessness, negligence or improper conduct of the party of the second part.

20 10. It is agreed that the Lessee shall have the right to sublet or underlet the demised premises or any part thereof for the uses and purposes specifically above limited, and the Lessee agrees not to assign this lease or the term demised by virtue of this Indenture. In the event of subletting or underleasing of the entire premises, the sub-lessee or under-lessee will assume in writing the provisions of the term of this lease on the part of the tenant, and an original executed agreement of this character will be delivered to the Lessor prior to the beginning of the occupancy of said sub-lessee or under-lessee. It is further agreed that none of the liabilities of the Lessee hereunder shall be minimized, modified or 30 impaired by virtue of any sublease or underlease created by it.

40 11. The Lessor reserves the right to erect a sign at the rear of property facing the railroad not over 12 feet in height and at least ten feet away from rear of building, for advertising purposes. This sign, however, is not to be used for the advertising of any automobile in competition with the Dodge Bros. motor car.

Exhibit P. 1.

12. The Lessor further agrees, upon the completion of said building, to furnish the Lessee with a certificate of occupation from the Building Department of the Town of Summit (if the same can be obtained), showing that the building has been erected according to the rules and regulations governing the construction of said buildings in the Town of Summit, and may be occupied for the purposes of an automobile showroom and service station.

10

IN WITNESS WHEREOF, the parties have caused these presents to be signed by their Presidents, attested by their Secretaries and their corporate seals to be hereunto affixed the day and year first above written.

20

BLANCHARD SECURITIES, INC.

By W. L. Blanchard
President.

(SEAL)

Attest:

Isaac C Blanchard
Secretary.

BONNELL MOTOR CAR CO. INC.

30

By R. M. Hillas
Vice-President.

Attest:

A. Starr
A Secretary.

40

STATE OF NEW JERSEY, }
COUNTY OF ESSEX. } SS.:

BE IT REMEMBERED, that on this Twenty-third day of October, in the year of our Lord One Thousand Nine Hundred and Twenty-five, before me, the subscriber, a Notary Public personally appeared A. Starr to me known, who being by me duly sworn according to law, on his oath saith that he is the Asst. Secretary of Bonnell Motor Car Co., Inc., the Lessee in the foregoing lease mentioned. That the seal affixed to said lease is the corporate seal of said company. That R. M. Hillas is the Vice-President of the said company; that he saw the said R. M. Hillas as such Vice-President sign the said lease and heard him declare that he signed, sealed and delivered the same as the voluntary act and deed of the said company by their order and that deponent signed his name thereto at the same time as an attesting witness.

A. STARR,
Asst-Secy

Sworn and subscribed to before me
this 23rd day of October, 1925.

A. N. SIEGEL,
Notary Public of New Jersey.
My commission expires July 16, 1930.

STATE OF NEW JERSEY, }
COUNTY OF ESSEX. { SS.:

BE IT REMEMBERED, that on this day
of October, in the year of our Lord One Thousand
40 Nine Hundred and Twenty-five, before me, the sub-
scriber, a

Exhibit P. 1.

personally appeared Isaac C. Blanchard, to me known, who being by me duly sworn according to law, on his oath saith that he is the Secretary of Blanchard Securities, Inc., the Lessor in the foregoing lease mentioned. That the seal affixed to said lease is the corporate seal of said company; that it is so affixed by order of the said company. That William L. Blanchard is the President of the said company; that he saw the said William L. Blanchard as such President sign the said lease and heard him declare that he signed, sealed and delivered the same as the voluntary act and deed of the said company by their order, and that deponent signed his name thereto at the same time as an attesting witness.

10

20

.....

Sworn and subscribed to before me
this day of October, 1925.

.....

LEASE.

30

Between

Blanchard Securities, Inc., (a corporation)

and

Bonnell Motor Car Company, Inc., (a corporation)

Dated: October , 1925.

40

*Exhibit P. 2.***Exhibit P. 2.**

TO BLANCHARD SECURITIES, INC.:
Summit, N. J.

10 The Bonnell Motor Car Company have sublet
to the Hillas Motor Car Company, the premises
known as No. 76-78 Franklin Place, Summit, New
Jersey, for the full term of the lease between you
and the Bonnell Motor Car Company, dated Octo-
ber 23, 1925, and the Hillas Motor Car Company
does hereby assume the provisions of all the terms
of said lease.

Dated: October 25, 1927.

20 HILLAS MOTOR CAR COMPANY.
By R. M. HILLAS
President.

Attest:

W. H. HAMILTON
Secretary.

30

40

*Exhibit D. 1.***Exhibit D. 1.**

BLANCHARD SECURITIES, INC.

45 Poinier Street

Newark, N. J.

10

Telephone Waverly 2652

February 18th, 1931

Leahy Motor Car Co.,
74-76 Franklin Place,
Summit, N. J.

Attention: Mr. John J. Leahy

Gentlemen:

20

We will rent to you the service station known as Nos. 74-76 Franklin Place, Summit, N. J., on a month to month basis, starting with April 1st, 1931, at a monthly rental of \$150.00, to be paid on the first day of each and every month in advance.

It is agreed between the Leahy Motor Car Co. and ourselves, that we will mutually give or accept a thirty (30) day notice in writing to terminate this arrangement.

30

Yours very truly,

BLANCHARD SECURITIES, INC.

ISAAC C. BLANCHARD

Secretary

ICB:F

Accepted by:

LEAHY MOTOR CAR CO.,
JOHN J. LEAHY

40

Exhibit D. 2.

Exhibit D. 2.

BLANCHARD SECURITIES, INC.

45 Poinier Street

Newark, N. J.

10

—
Telephone Waverly 2652

April 18, 1929

Hillas Motor Car Co.,
c/o Frank W. Long,
43 Lincoln Park,
Newark, N. J.

20 *Gentlemen:*

We agree to give our consent to the Hillas Motor Car Co. to sublet the premises at Nos. 76-78 Franklin Place, Summit, N. J., to the Leahy Motor Car Co., for the full term of our lease with the Bonnell Motor Car Co., dated April 23, 1925; provided, however, that this does not in any way release the Bonnell Motor Car Co. from their lease with us herein referred to, neither the Hillas Motor Car Co. from the provisions of this lease they assumed, when the Bonnell Motor Car Co. sublet the premises to them.

30

Yours very truly,

BLANCHARD SECURITIES, INC.

W. L. BLANCHARD

President.

WLB:F

40

*Exhibit D. 3.***Exhibit D. 3.**

This check is in full payment of the following, if incorrect please return. Endorsement is full acknowledgment.

Date	Invoice	Amount
Rent — Mar 1	-'	Mar 15
for 78 Franklin Pl. Summit		

10

HILLAS MOTOR CAR COMPANY

No.....8720.....(7)

39 Sussex Avenue

Newark, N. J...Mar. 24..1931

20

Pay to the order of

BLANCHARD SECURITIES INC \$166.67

.....The sum of \$166 and 67 cts.....Dollars

HILLAS MOTOR CAR COMPANY

R. D. CHAPLIN

Vice Pres.

ALEX STARR

Treas.

30

To the

FIDELITY UNION

TRUST COMPANY

North Ward Branch

Broad and Orange Sts.

55-9 NEWARK, N. J.

(Usual bank endorsements on back of check.)

40

*Exhibit D. 4.***Exhibit D. 4.**

THIS INDENTURE OF LEASE, made this First day of March, in the year of our Lord One Thousand Nine Hundred and Twenty-nine, by and between,

10

HILLAS MOTOR CAR COMPANY, a corporation of the State of New Jersey, having its principal office in the City of Newark, County of Essex and State of New Jersey, party of the first part (hereinafter known as the Lessor), and

JOHN J. LEAHY, trading as Leahy Motor Car Company, of the Town of Summit, County of Union and State of New Jersey, party of the second part (hereinafter known as the Sublessee).

20

NOW THIS INDENTURE WITNESSETH:

1. That the Lessor for and in consideration of the rents, covenants and agreements hereinafter contained, mentioned and reserved on the part and in behalf of the said Sublessee, to be paid, kept and performed, does demise, lease and farm-let unto the said Sublessee, a four-story brick service station with showroom, on a plot of ground approximately fifty-five (55) feet front and rear by one hundred and thirty (130) feet in depth, and being known and designated as Nos. 76-78 Franklin Place, Summit, Union County, New Jersey.

30

TO HAVE AND TO HOLD, the above described premises with the improvements and appurtenances thereunto belonging, unto the said Sublessee, for a period beginning on the first day of March, One Thousand Nine Hundred and Twenty-nine, and terminating on the thirty-first day of March, One Thousand Nine Hundred and Thirty-one.

40

Exhibit D. 4.

The Sublessee agrees to pay as rental for the said demised premises, the sum of Four Thousand Dollars (\$4000.00) per year, payable in equal monthly installments of Three Hundred Thirty-three Dollars and Thirty-three Cents (\$333.33) on the first business day of each and every month, in advance, during the aforesaid term.

10

And yielding and paying further when due, as additional rent during the whole term, all water rents levied against the said property by the Town of Summit, County of Union, State of New Jersey, or other interests to whom said water rent shall be payable, and also for tariffs or charges for insurance for the plate glass in the said building, to the extent of the full insurable value thereof.

20

2. The Sublessee does covenant and agree to and with the Lessor, as follows:

That the said Sublessee shall and will during the term hereby granted, well and truly pay or cause to be paid unto the Lessor, the said money rent above reserved, on the days and in the manner herein limited and prescribed for the payment thereof, without any fraud, deduction or delay, according to the true intent and meaning of these presents; and that the said Sublessee shall and will, during the said term of this lease, make and pay for all the ordinary and necessary repairs on the inside of the said building, and the Lessor agrees to make and pay for all the ordinary and necessary repairs needed to be made on the outside of said building and premises; and at the expiration of the tenancy, yield up the peaceable possession thereof to the Lessor, in as good repair as the same may be at the commence-

30

40

Exhibit D. 4.

ment thereof (wear and tear arising from the reasonable use of the same, damages by the elements excepted). PROVIDED, however, that if the yearly rent herein reserved, or any part thereof, shall be behind and unpaid, on any day of payment whenever the same ought to be paid as aforesaid, or if default shall be made in any of the covenants, conditions or agreements herein contained on the part and in behalf of the said Sublessee, to be paid, kept and performed, thence and from thenceforth it shall and may be lawful for the said Lessor to re-enter the said premises and every part thereof, and the same to have again, re-possess and enjoy as in its first and former estate, anything herein contained to the contrary thereof in anywise notwithstanding. PROVIDED always that the Lessor shall not avail itself in the manner aforesaid by reason of any such default without having first given ten (10) days' notice to the Sublessee of its intent so to do, and the default complained of shall not have been amended, or such breach entirely removed on or before the expiration of the time specified in said notice, and PROVIDED, further, that the waiver of any default or defaults in the performance of the terms hereof shall not be construed by the parties hereto, as a waiver of any subsequent default. PROVIDED, however, that if the default complained of shall be a subject of repairs, the Sublessee will within the ten-day period, begin the correction or removal of such default and complete the same with all reasonable dispatch. All notices provided for under this lease may be given personally by either party to the other, or sent by registered mail to their last known address.

Exhibit D. 4.

3. It is further agreed between the parties to these presents that this lease shall be subject and subordinate at all times to the lien of any mortgage or mortgages, in an amount not exceeding Thirty Thousand Dollars (\$30,000.00) now or hereafter placed on the land and buildings of which the demised premises form a part, without the necessity of any further instrument or act on the part of the Sublessee to effect such subordination, provided, however, the Sublessee covenants and agrees to execute and deliver upon demand, such further instrument or instruments evidencing such subordination of this lease to the lien of any such mortgage or mortgages as shall be desired, aggregating in an amount of the sum of Thirty Thousand Dollars (\$30,000.00). The expense of the execution of said subordination shall be paid by the Lessor.

10

20

4. It is expressly understood and agreed that in the event that the above demised premises or any part thereof shall be taken for public purposes by any power or authority in the State of New Jersey having the right to take the same by condemnation or eminent domain, the amount awarded as compensation for the part of the demised premises so taken, shall be paid to the Lessor, and the Lessor will pay to the Sublessee, the entire amount of an award which may be paid to the said Lessor by reason of the interest of the Sublessee in the said premises, and upon the making of said award by the said authority or power, this lease shall come to an end, and the Sublessee agrees to immediately vacate the premises.

30

5. The said Sublessee does further covenant to and with the Lessor, that if at any time during the said term herein demised, said Sublessee shall

40

Exhibit D. 4.

10 be adjudicated a bankrupt, or said Sublessee shall compound all its debts or assign its entire estate or effects for the payment thereof, then this lease shall, at the option of said Lessor, cease and come to an end, after three days' notice in writing of such election, which notice may be sent by mail to the said Sublessee, addressed to the premises herein demised.

20 6. The Lessor does covenant and agree to and with the said Sublessee, that the said Sublessee, upon payment of the rental herein contained, shall and may at all times during the said term herein granted, peaceably and quietly have, hold and enjoy the said demised premises without eviction or disturbance by any person or persons, corporation or corporations, having right to, or lawfully claiming the same or any part thereof.

30 7. It is further understood and agreed that the said Sublessee will during the reasonable hours of the day permit the said Lessor or its agents, to enter the said premises to examine the same and for the purpose of making repairs or alterations, or for the purpose of preserving and maintaining the same, and also to show the premises to persons wishing to purchase, and during the last six months of the demised term will permit the usual notices of "to let" or "for sale" to be placed on the walls of the demised premises and to remain thereon without hindrance or molestation.

40 8. The Sublessee agrees to use the demised premises as a showroom and service station for automobiles, and to furnish covered waste cans for service station, ash cans for boiler room, a sufficient number of smoking signs, and pails, water pails and fire extinguishers, and it further

Exhibit D. 4.

agrees to not have any open flames, forges or acetylene flames in the building, and to operate and maintain the said premises in accordance with the rules, regulations and requirements of the Town of Summit, or any other municipality of which the same may be a component part, or of the County of Union or State of New Jersey, or any Federal Department or authority having jurisdiction over the demised premises, and agrees that at all times during the demise, the said premises will be occupied in a lawful manner. 10

9. It is further agreed between the parties hereto that in case the premises hereby leased shall be partially damaged by fire, and the same repaired as speedily as possible, at the expense of the party of the first part; that in case the damage shall be so extensive as to render the premises untenable, the rents shall cease until such time as the premises shall be in complete repair; that in case of the total destruction of the premises by fire or otherwise, the rents shall be paid up to the time of such destruction, and then and from thenceforth this lease shall cease and come to an end; and provided, however, that said damage or destruction be not caused by the carelessness, negligence or improper conduct of the party of the second part. 20 30

10. The Sublessee further agrees not to sublet or underlet the demised premises, or any part thereof, nor assign, mortgage or sell this lease without the written consent of the Lessor; and it is further agreed that in the event of a subletting, none of the liabilities of the Sublessee hereunder shall be minimized, modified or impaired by reason of any subletting created by it. 40

Exhibit D. 4.

11. It is understood and agreed that this lease is subject to a certain lease dated October Twenty Twenty-third, One Thousand Nine Hundred and Twenty-five, between Blanchard Securities, Inc. and Bonnell Motor Car Company, and also subject to a lease dated October Twenty-second, One Thousand Nine Hundred and Twenty-seven, between Bonnell Motor Car Company and Hillas Motor Car Company, the Lessor herein, and that the Sublessee is bound by all such terms of said leases as may be applicable to the Sublessee herein. The Sublessee has the right, in case of default by the Bonnell Motor Car Company or the Hillas Motor Car Company, under the leases hereinabove mentioned, to carry out the terms thereof in order to protect this lease, and any sums that it might be required to pay in order to protect this lease shall be credited on the rent due hereunder.

12. And it is further understood and agreed that the covenants and agreements herein contained are binding on the parties hereto, their legal representatives, heirs, executors, administrators, successors and assigns.

IN WITNESS WHEREOF, the party of the first part has caused these presents to be signed by its President, attested by its Secretary, and its corporate seal to be hereunto affixed, and the party of the second part has set his hand and seal, the day and year first above written.

HILLAS MOTOR CAR COMPANY,

By R. M. HILLAS,

President.

Attest:

ALEX STARR
Secretary.

JOHN J. LEAHY,
Trading as Leahy Motor Car Company (L. S.)

Exhibit D. 4.

STATE OF NEW JERSEY, }
COUNTY OF ESSEX, } ss.:

BE IT REMEMBERED, that on this day
of June, in the year of our Lord One Thousand
Nine Hundred and Twenty-nine, before me, the 10
subscriber, a , personally
appeared to me known, who
being by me duly sworn according to law, on
his oath saith that he is the Secretary of Hillas
Motor Car Company, the Lessor in the fore-
going lease mentioned. That the seal affixed to
said lease is the corporate seal of said company;
that it is so affixed by order of the said company;
that is the President of
the said company; that he saw the said 20
 as such President sign the said
lease and heard him declare that he signed,
sealed and delivered the same as the voluntary
act and deed of the said company by their order,
and that deponent signed his name thereto at the
same time as an attesting witness.

A. STARR
Secy

Subscribed and sworn to before me 30
this day of June,
1929.

.....

Exhibit D. 4.

STATE OF NEW JERSEY, }
COUNTY OF ESSEX, } ss.:

BE IT REMEMBERED, That on this day
of June, in the year of our Lord One Thousand
10 Nine Hundred and Twenty-nine, before me, the
subscriber, a , personally
appeared John J. Leahy, who, I am satisfied, is
the Sublessee mentioned in the within Instru-
ment, to whom I first made known the contents
thereof, and thereupon he acknowledged that, he
signed, sealed and delivered the same as his vol-
untary act and deed, for the uses and purposes
therein expressed.

20

.....

Subscribed and sworn to before me
this day of June,
1929.

.....

LEASE.

30

BETWEEN

HILLAS MOTOR CAR COMPANY,
(a corporation)

AND

LEAHY MOTOR CAR COMPANY,
(a corporation)

Dated: March 1, 1929.

40

Exhibit D. 5.

Exhibit D. 5.

Summit N. J.
Mch 26st/31

Agreement on other side of sheet to commence
when Blanchard Securities Inc. obtain legal pos-
session of Building 10

BLANCHARD SECURITIES INC
W. L. BLANCHARD Tres
JOHN J. LEAHY.

*The reverse side of the above exhibit is an exact
duplicate of Exhibit D. 5.* 20

30

40

Judge's Memorandum—Case No. 149433.

Judge's Memorandum.

July 7, 1931.

10	#149433 BLANCHARD SECURITIES INC. <i>vs.</i> BONNELL MOTOR CAR CO. INC. <i>et al.</i>
----	--

Plaintiff leased premises in question to Bonnell Motor Car Company; this lease expired March 15, 1931.

20 Bonnell Motor Car Company sublet for the balance of its term to Hillas Motor Car Company.

Hillas Motor Car Company leased the premises to Leahey under a lease purporting to expire March 31st, 1931.

Before March 15th, plaintiff knew that Bonnell Motor Car Company did not intend to renew its lease and knew that Hillas Motor Car Company had made a lease to Leahey that purported to expire March 31st, and knew that Hillas Motor Car Company would not occupy the premises after March 15th. Plaintiff and Leahey before March 15th, knew that Leahey would stay in possession of the premises after March 15th to March 31st, after which Leahey remained in possession under some arrangement with plaintiff.

Leahey is not a party to the suit.

Judgment for defendant, Bonnell Motor Car Co. and against Hillas Motor Car Co. for rent to March 31st, \$166.67.

40

C. H. M.,
Judge.

Certificate as to Exceptions—Case No. 149433.

Certificate as to Exceptions.

FIRST DISTRICT COURT OF THE
CITY OF NEWARK

#149433.

10

BLANCHARD SECURITIES, INC., a corporation of New Jersey,
Plaintiff,

vs.

THE BONNELL COMPANY, a corporation of New Jersey, formerly Bonnell Motor Car Co., Inc., and HILLAS MOTOR CAR COMPANY, a corporation of New Jersey,

Defendants.

On Contract.

Certificate.

#149433.

20

I, CECIL H. MACMAHON, Judge of this Court, before whom the above-entitled cause was tried, do hereby certify that upon the filing of my conclusions in this cause, the attorneys for the plaintiff prayed for an exception to my findings of fact and conclusions of law and that thereupon I allowed them a general exception to said findings of fact and conclusions of law.

30

I do further certify that at my request the attorneys of the parties submitted to me their respective briefs or memoranda before the filing of my conclusions.

Dated July 16, 1931.

CECIL H. MACMAHON,
Judge of the First District Court
of the City of Newark.

40

Judge's Memorandum—Case No. 150311.

Judge's Memorandum.

July 7, 1931.

10

#150311

BLANCHARD SECURITIES INC.

vs.

BONNELL COMPANY *et al.*

This case was tried with #149433.

20

Judgment for defendants.

C. H. M.,
Judge.

30

40

Certificate as to Exceptions—Case No. 150311.

Certificate as to Exceptions.

FIRST DISTRICT COURT OF THE
CITY OF NEWARK.

#150311.

10

BLANCHARD SECURITIES, INC., a corporation of New Jersey,
Plaintiff,

vs.

BONNELL COMPANY, a corporation of New Jersey, formerly Bonnell Motor Car Co., Inc., and HILLAS MOTOR CAR COMPANY, a corporation of New Jersey,
Defendants.

On Contract.

Certificate.

#150311.

20

I, CECIL H. MACMAHON, Judge of this Court, before whom the above-entitled case was tried, do hereby certify that upon the filing of my conclusions in this cause, the attorneys for the plaintiff prayed for an exception to my findings of fact and conclusions of law and that thereupon I allowed them a general exception to said findings of fact and conclusions of law.

30

I do further certify that at my request the attorneys of the parties submitted to me their respective briefs or memoranda before the filing of my conclusions.

CECIL H. MACMAHON,
Judge of the First District Court
of the City of Newark.

40

Dated July 9, 1931.

*Judge's Memorandum—Case No. 151974.***Judge's Memorandum.**

No. 151974.

10 Blanchard Securities Inc. *vs.* Bonnell Company.

July 7, 1931

This case was tried with No. 149433.

Judgment for defendants.

C. H. M.

20

30

40

Certificate as to Exceptions—Case No. 151974.

Certificate as to Exceptions.

FIRST DISTRICT COURT OF THE
CITY OF NEWARK.

No. 151974.

10

BLANCHARD SECURITIES, INC., a corporation of New Jersey,
Plaintiff,

vs.

BONNELL COMPANY, a corporation of New Jersey, formerly Bonnell Motor Car Co., Inc., and HILLAS MOTOR CAR COMPANY, a corporation of New Jersey,
Defendants.

On Contract.

Certificate.

#151974.

20

I, CECIL H. MACMAHON, Judge of this Court, before whom the above-entitled case was tried, do hereby certify that upon the filing of my conclusions in this cause, the attorneys for the plaintiff prayed for an exception to my findings of fact and conclusions of law and that thereupon I allowed them a general exception to said findings of fact and conclusions of law.

30

I do further certify that at my request the attorneys of the parties submitted to me their respective briefs or memoranda before the filing of my conclusions.

CECIL H. MACMAHON,
Judge of the First District Court
of the City of Newark.

40

Notice of Appeal—Case No. 149433.

Notice of Appeal.

Filed July 17, 1931.

FIRST DISTRICT COURT OF THE
CITY OF NEWARK.

10

BLANCHARD SECURITIES, INC., a cor-
poration of New Jersey,
Plaintiff,

vs.

THE BONNELL COMPANY, a cor-
poration of New Jersey, for-
merly Bonnell Motor Car Co.,
Inc., and HILLAS MOTOR CAR
COMPANY, a corporation of New
Jersey,

Defendants.

On Contract.

Notice of Appeal.
#149433.

20

To The Bonnell Company, formerly Bonnell Motor
Car Co., Inc., and Hillas Motor Car Company,
or Frank W. Long, Esq., their attorney:

30

SIRS:

TAKE NOTICE, that the plaintiff, Blanchard Securi-
ties, Inc., a corporation of New Jersey, hereby
appeals to the New Jersey Supreme Court from
the judgment of the First District Court of the
City of Newark, rendered in the above-stated
action on the 7th day of July, 1931.

Dated July 16, 1931.

40

SAUL and JOSEPH E. COHN,
Attorneys for Plaintiff.

Notice of Appeal—Case No. 149433.

Service of a copy of the within Notice of Appeal
is hereby acknowledged this 16th day of July,
1931.

FRANK W. LONG,
Attorney for Defendants. 10

20

30

40

*Notice of Appeal—Case No. 150311.***Notice of Appeal.**

Filed July 17, 1931.

FIRST DISTRICT COURT OF THE
CITY OF NEWARK.

10

BLANCHARD SECURITIES, INC., a cor-
poration of New Jersey,
Plaintiff,

vs.

THE BONNELL COMPANY, a cor-
poration of New Jersey, for-
merly Bonnell Motor Car Co.,
Inc., and HILLAS MOTOR CAR
COMPANY, a corporation of New
Jersey,

20

Defendants.

On Contract.

Notice of Appeal.

#150311.

To Bonnell Company, a corporation of New Jersey,
formerly Bonnell Motor Car Co. Inc., and Hillas
Motor Car Company, a corporation of New
Jersey, or Frank Long, Esq., their attorney:

30

SIRS:

TAKE NOTICE that the plaintiff, Blanchard Securi-
ties Inc. a corporation of New Jersey, hereby
appeals to the New Jersey Supreme Court from
the judgment of the First District Court of the
City of Newark, rendered in the above-stated
action on the 7th day of July, 1931.

40

SAUL and JOSEPH E. COHN,
Attorneys of Plaintiff.

Dated July 9th, 1931.

Notice of Appeal—Case No. 150311.

Service of a copy of the within Notice of Appeal
is hereby acknowledged this 16th day of July,
1931.

FRANK W. LONG,
Attorney for Defendants. 10

Filed July 17, 1931.

20

30

40

Notice of Appeal—Case No. 151974.

Notice of Appeal.

Filed July 21, 1931.

FIRST DISTRICT COURT OF THE CITY
OF NEWARK.

10

BLANCHARD SECURITIES, INC., a corporation of New Jersey,
Plaintiff,

vs.

BONNELL COMPANY, a corporation of New Jersey, formerly Bonnell Motor Car Co., Inc., and
HILLAS MOTOR CAR COMPANY, a corporation of New Jersey,
Defendants.

20

On Contract.

Notice of Appeal.
#151974.

To Bonnell Company, a corporation of New Jersey, formerly Bonnell Motor Car Co. Inc. and Hillas Motor Car Company, a corporation of New Jersey, or Frank Long, Esq., their attorney:

30

SIRS:

TAKE NOTICE, that the plaintiff, Blanchard Securities Inc., a corporation of New Jersey, hereby appeals to the New Jersey Supreme Court from the judgment of the First District Court of the City of Newark, rendered in the above stated action on the 7th day of July, 1931.

Dated: July 9th, 1931.

40

SAUL and JOSEPH E. COHN,
Attorneys of Plaintiff.

Notice of Appeal—Case No. 151974.

Service of a copy of the within Notice of Appeal
is hereby acknowledged this 16th day of July,
1931.

FRANK W. LONG,
Attorney for Defendants. 10

Filed: July 17, 1931.

20

30

40

Specification of Objections.

NEW JERSEY SUPREME COURT.

BLANCHARD SECURITIES, INC., a corporation of New Jersey,

Plaintiff-Appellant,

v.

THE BONNELL COMPANY, a corporation of New Jersey, formerly Bonnell Motor Car Co., Inc., and HILLAS MOTOR CAR COMPANY, a corporation of New Jersey,

Defendants-Respondents.

On Contract.

The following is a specification of the determinations of the District Court with which appellant is dissatisfied in point of law.

1. The Court erred in rendering judgment in favor of the defendant The Bonnell Company and against the plaintiff in each of the three cases in this appeal, whereas it should have rendered judgment in favor of the plaintiff and against said defendant for the sum of \$333.33 in each case.

2. The Court erred in rendering judgment in favor of the defendant The Bonnell Company and against the plaintiff in case bearing District Court Docket #149433, in that The Bonnell Company was still liable for the rent notwithstanding the sublease to the Hillas Motor Car Company, as is provided for and covenanted by The Bonnell Company in the lease between The Bonnell Company and the plaintiff, and the Court should have rendered a judgment against The Bonnell Company and in favor of the plaintiff for at least the sum of

Specifications of Objections.

\$166.67, upon its finding that the Hillas Motor Car Company was liable to the extent of \$166.67.

3. The Court erred in rendering judgment in favor of the defendant Hillas Motor Car Company and against the plaintiff in the two subsequent cases bearing District Court Docket Numbers 150311 and 151974, respectively, whereas it should have rendered judgment in favor of the plaintiff and against said defendant Hillas Motor Car Company in both of said cases, for the sum of \$333.33 in each case. 10

4. The Court erred in rendering judgment in favor of the plaintiff and against the defendant, Hillas Motor Car Company for only \$166.67, in case bearing District Court Docket Number 149433, whereas judgment should have been rendered in favor of the plaintiff and against said defendant Hillas Motor Car Company for the full sum of \$333.33. 20

5. The Court erred in all three cases in this appeal in failing to hold the defendant Hillas Motor Car Company as a hold-over tenant.

6. The Court erred in determining that the defendant Hillas Motor Car Company was not a hold-over tenant for another year from March 15, 1931. 30

7. The Court erred in failing to recognize or take into consideration the assumption clause contained in the lease between the plaintiff and The Bonnell Company, the effect of which clause was to make the defendant The Bonnell Company liable to the plaintiff whenever the Hillas Motor Car Company was liable. 40

SAUL AND JOSEPH E. COHN,
Attorneys for Plaintiff-Appellant.

Opinion of Supreme Court.

(Filed Nov. 20, 1931.)

NEW JERSEY SUPREME COURT,

Nos. 448, 449, 450, OCTOBER TERM, 1931.

10

BLANCHARD SECURITIES, INC.,
Plaintiff-Appellant,

vs.

THE BONNELL COMPANY, formerly
BONNELL MOTOR CAR CO., INC.,
and HILLAS MOTOR CAR CO.,
Defendants-Appellees.

20

Argued October 6, 1931; decided November 18th,
1931.

Appeals from District Court.

Before—Justices CAMPBELL, LLOYD and BODINE.

For appellant, SAUL and JOSEPH E. COHN.

For appellees, FRANK W. LONG.

Per Curiam:

30

These are appeals from judgments in three suits
in the District Court, all based upon the same
facts, conditions and proofs.

A greater part, if not all of the facts, are not in
dispute.

40

On October 23, 1925, Blanchard Securities, Inc.,
leased certain lands and appurtenances to Bonnell
Motor Car Co., Inc., from January 1, 1926 to De-
cember 31, 1930, at an annual rental of \$4,000 pay-
able in monthly installments of \$333.33 on the first
business day of each month in advance.

Opinion of Supreme Court.

By paragraph 10 of such lease it was provided that the lessee, Bonnell Company should have the right to sublet or underlet such premises and the lessee agreed not to assign the lease; that upon subletting or underletting the sub-lessee or under-lessee would assume in writing the terms of the lease and that an original agreement of that character would be delivered to the lessor prior to the beginning of the occupancy by such sub-lessee or under-lessee and that none of the liabilities of the original lessee should "be minimized, modified or impaired by virtue of any sub-lease or under-lease created by it."

10

On October 23, 1925 the original lessee, Bonnell Motor Car Company, sublet the whole premises to the Hillas Motor Car Company for the balance of the term and on October 25, 1927 the Hillas Motor Car Company so advised the landlord, Blanchard Securities, Inc., and agreed to "assume the provisions of all the terms of said lease."

20

On March 1, 1929, Hillas Motor Car Company sublet the premises in question to John L. Leahy, trading as Leahy Motor Car Company, for the period commencing March 1, 1929 and terminating March 31, 1931.

30

Now the original lease to Bonnell Company was for a period of five years and would have terminated December 31, 1930 had the building being erected at the date of the leasing been completed by January 1, 1926 but in the event that it was not completed then the term of five years was to run from the date of such completion. Apparently the building was not completed until March 15, 1926* and therefore the term of the lease extended to March 15, 1931.

40

The result was that the subletting by the subtenant, Hillas Motor Car Company to Leahy, over-

Opinion of Supreme Court.

rode and extended beyond the term of the original lease from March 15, 1931 to March 31, 1931.

10 On April 18, 1929 Blanchard Securities, Inc., gave its consent to such subletting by Hillas Motor Car Company to Leahy Motor Car Company "provided, however, that this does not in anyway release the Bonnell Motor Car Company from their lease with us herein referred to, neither the Hillas Motor Car Company from the provisions of this lease they assumed when the Bonnell Motor Car Company sublet the premises to them."

20 On February 18, 1931 the Blanchard Securities, Inc., agreed with Leahy Motor Car Company to "rent to you the service station * * * on a month to month basis, starting from April 1, 1931 at a monthly rental of \$150. * * *"

It appears that such agreement was never executed or carried out.

On March 24, 1931 the Hillas Motor Car Company paid Blanchard Securities, Inc., \$166.67 rental to March 15, 1931.

30 Suit was commenced April 1, 1931 by Blanchard Securities, Inc., against both Bonnell Motor Car Company and Hillas Motor Car Company for \$333.33 for rental for the premises from March 15, 1931 to April 15, 1931 upon the theory that they were holding over and occupying the premises beyond the term of their lease.

40 Upon the trial of this suit judgment was rendered against the plaintiff and in favor of the Bonnell Company and in favor of the plaintiff and against the Hillas Company for \$166.67 for possession of the premises from March 15, to March 31, 1931. The court finding as a matter of fact, "Before March 15, plaintiff knew that Bonnell Motor Car Company did not in-

Opinion of Supreme Court.

tend to renew its lease and knew that Hillas Motor Car Company had made a lease to Leahy that purported to expire March 31, and knew that Hillas Motor Car Company would not occupy the premises after March fifteenth. Plaintiff and Leahy before March fifteenth knew that Leahy would not stay in possession of the premises after March fifteenth to March thirty-first, after which Leahy remained in possession under some arrangement with the plaintiff." 10

Subsequently suit was brought to recover the rent from April 15, 1931 to May 15, 1931 and still subsequently another or third suit was brought to recover the rent from May 15, 1931 to June 15, 1931.

The trial proceeded under the first action before referred to and in accord with the finding therein the trial judge in the two actions last referred to found against the plaintiff and in favor of the defendants and judgments to that effect were accordingly entered. 20

From all three judgments the plaintiff below appeals and urges three grounds for reversal—

1. The court erred in rendering judgment in favor of the defendant, the Bonnell Company, and against the plaintiff in all three cases because the Bonnell Company was liable as a hold-over tenant by reason of the possession of the demised premises after March 15, 1931, by the sub-lessee of said defendant's sub-lessee, and the plaintiff's election to so hold the defendants while said possession continued. 30

2. The court erred in rendering judgment in favor of the defendant, the Bonnell Company, and against the plaintiff in all three cases because 40

Opinion of Supreme Court.

under its lease with the plaintiff said defendant agreed that none of its liabilities under said lease should be minimized, modified or impaired by virtue of any sub-lease or under-lease created by it.

10

3. The court erred in rendering judgment in favor of the Hillas Motor Car Company in the last two cases herein referred to because said defendant assumed all the terms and provisions of the main lease.

We think that no one of these grounds has factual or legal substance.

20

Point 1, above referred to, is without merit because the Bonnell Company did not sublet beyond the term of its lease.

Points 2 and 3 are likewise without merit because there were proofs upon which the court below could and did find that the plaintiff-appellant did not recognize and act toward the Hillas Company as a tenant after March 31, 1931. Such finding of fact is not reviewable here.

The judgments under review will be affirmed, with costs.

30

40

Rule of Affirmance and Remittitur.
NEW JERSEY SUPREME COURT.

BLANCHARD SECURITIES, INC., a corporation of New Jersey,
Plaintiff-Appellant,

vs.

THE BONNELL COMPANY, a corporation of New Jersey, formerly Bonnell Motor Car Co., Inc., and HILLAS MOTOR CAR COMPANY, a corporation of New Jersey,
Defendants-Respondents.

On Contract.

On Appeal from
 First District
 Court of the
 City of Newark.

10

JUDGMENTS OF
 AFFIRMANCE
 Nos. 448, 449,
 450.

These three causes having been duly argued at the October Term of this Court by Saul and Joseph E. Cohn, Esqs., Attorneys for Plaintiff-Appellant, and Frank W. Long, Esq., Attorney for Defendants-Respondents, and it appearing that the appeals are from judgments in three suits in the District Court all based upon the same facts, conditions and proofs, and the Court having duly considered the same, and being of the opinion that the judgments entered in the First District Court of the City of Newark from which these appeals were taken, should be in all things affirmed, with costs, to the defendants-respondents,

20

30

It is on this 16th day of February, 1932, ORDERED, that a judgment of affirmance be and is hereby rendered in each of the three cases, with costs, and said records are hereby remitted to the Court below to be proceeded with according to law and the practise of said Court.

Entered Feb. 16, 1932.

40

On Motion of

FRANK W. LONG,
 Attorney for Defendants-Respondents.

Notice and Ground of Appeal.

NEW JERSEY SUPREME COURT.

10	BLANCHARD SECURITIES, INC., <i>Plaintiff-Appellant,</i> <i>vs.</i> THE BONNELL COMPANY, formerly BONNELL MOTOR CAR CO., INC., and HILLAS MOTOR CAR CO., <i>Defendants-Appellees.</i>	} On Contract.
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To:

20 FRANK W. LONG,
 Attorney of Defendants-Appellees:

SIR:

PLEASE TAKE NOTICE that the plaintiff in the above-entitled cause appeals to the Court of Errors and Appeals in the last resort in all causes in New Jersey from the whole of the judgment entered in this cause on the following ground:

30 1. Because the Supreme Court erred in that it affirmed the judgments of the First District Court of the City of Newark for the defendants, whereas it should have reversed the same and directed the entry of judgment in favor of the plaintiff.

Dated February 8, 1932.

SAUL AND JOSEPH E. COHN,
 Attorneys of Plaintiff-Appellant.

40 Service of a copy of within Notice and Ground of Appeal is hereby acknowledged this 8th day of Feb., 1932.

FRANK W. LONG,
 Attorney for Defendants-Appellees.

New Jersey Court of Errors and Appeals

BLANCHARD SECURITIES, INC., a
corporation of New Jersey,
Plaintiff-Appellant,

v.

THE BONNELL COMPANY, a cor-
poration of New Jersey, for-
merly Bonnell Motor Car Co.,
Inc., and HILLAS MOTOR CAR
COMPANY, a corporation of
New Jersey,
Defendants-Respondents.

On Contract.

On Appeal from
Supreme Court.

BRIEF OF DEFENDANTS-RESPONDENTS.

Summary of Facts.

There is no dispute on the fact that in October, 1925, Blanchard Securities, Inc., plaintiff-appellant, leased premises in Summit, New Jersey, to Bonnell Motor Car Co., Inc., now The Bonnell Company, for a term of years expiring March 15, 1931. With the consent of Blanchard Securities, Inc., plaintiff-appellant, The Bonnell Company sublet to the defendant-respondent Hillas Motor Car Company, and with the further consent of Blanchard Securities, Inc. (Exhibit D-2, Case p. 60), the defendant-respondent Hillas Motor Car Company sublet the premises in question to John J. Leahy, trading as Leahy Motor Car Company. The rental stipu-

lated in the original lease (Exhibit P-1, Case p. 48) was the sum of four thousand dollars (\$4,000) annually, payable in equal monthly installments of three hundred thirty-three dollars and thirty-three cents (\$333.33).

Through some error in drawing the agreement to sublease to the Leahy Motor Car Company, the lease between Hillas Motor Car Company, defendant-respondent, and Leahy Motor Car Company ran to March 31, 1931, a period of fifteen days after the expiration date of the original lease.

It appears from the case (Case p. 38, line 30, to line 20, p. 39, inclusive) that Robert M. Hillas, the president of Hillas Motor Car Company, defendant-respondent, advised Mr. Clifford Blanchard, secretary of the plaintiff-appellant, that they did not intend to renew the lease after it expired on March 15, 1931. A check for rental on the premises from March 1, 1931, to March 15, 1931 (Exhibit D-3, Case p. 61), was accepted by the plaintiff-appellant and put through its bank. This check showed the payment of the half month's rent by the Hillas Motor Car Company, said check having a notation thereon that it was rent from March 1, 1931, to March 15, 1931.

It appears further from the case (Case p. 41, line 36) that on February 18, 1931, the plaintiff-appellant, being advised that the defendant-respondent Hillas Motor Car Company would not renew its lease for any further period after its expiration date, agreed to rent the premises to John J. Leahy, trading as Leahy Motor Car Company, commencing April 1, 1931, which was the expiration date of the lease between Hillas Motor Car Company, defendant-respondent, and John J. Leahy. While it is true that no written lease as such, was executed, nevertheless, there was an oral letting which was further verified by

a letter (Exhibit D-1, Case p. 59) sent by the plaintiff-appellant to Leahy Motor Car Company, on February 18, 1931, advising the Leahy Motor Car Company that it agreed to lease the premises in question from April 1, 1931. This arrangement was accepted by the Leahy Motor Car Company. Immediately upon receipt of this letter, John J. Leahy communicated with Mr. Hillas, president of Hillas Motor Car Company, defendant-respondent, and advised him of his new tenancy arrangement with the plaintiff-appellant (Case p. 39, lines 20 to 27, inclusive). John J. Leahy notified the Hillas Motor Car Company, defendant-respondent, of this new letting and advised it that he was continuing as the plaintiff-appellant's tenant after April 1, 1931, at which time his lease with the defendant-respondent expired. It appears further from the testimony of John J. Leahy (Case p. 42, lines 20 to 40, inclusive) that his arrangement with the plaintiff-appellant was subsequently modified on March 26, 1931 (Exhibit D-5, Case p. 71), which modification was to the effect that he was not to pay rent until some subsequent date.

The plaintiff-appellant, in its brief on page 5, says that the judgment in the first case against the Hillas Company for \$166.67 conclusively establishes the contention of a holdover and is contradictory to the judgment in its entirety. The District Court specifically, in its findings stated that the award of \$166.67, was for a period of two weeks' "use and occupation" by the Hillas Company.

ARGUMENT.

POINT I.

The Supreme Court did not err in affirming in its entirety the judgments entered in each of the District Court suits, Nos. 149,433, 150,311 and 151,974, inasmuch as there was no holdover tenancy by the defendants-respondents.

It is a uniformly accepted rule of law that a tenant who remains in possession of the leased premises after the expiration of his term does not thereby become a tenant as a holdover from year to year, unless the landlord *consents* to the holding over. A tenancy from year to year cannot be inferred from the mere fact of holding over. The landlord must in some manner recognize the tenancy. The mere fact that a tenant may continue in possession after the termination of his lease, is not in itself sufficient to constitute a tenancy from year to year. There must be consent or acquiescence on the part of the landlord, or the circumstances must be such as to be susceptible of a reasonable inference that the parties intended a tenancy from year to year. Where, however, a lessor does no act recognizing a continued tenancy, the tenant holding over is but a tenant at sufferance.

“The law is well settled in this State, that the unconditional acceptance of rent from a holdover tenant, according to the terms of a lease for years which has expired, creates a tenancy from year to year, *in the absence of any proof from which want of consent by the landlord may be inferred.*” (*Maier v. Cham-*

pion, 97 N. J. L. 493; *Cairo & St. Louis R. R. Co. v. Wiggins Ferry Co.*, 82 Ill. 230, 55 A. L. R. 286.)

In the case at bar, there is no proof of any kind which would indicate that the landlord, Blanchard Securities, Inc., intended to hold the defendants-respondents as tenants for a further period. There was no rent paid by the tenant. There was no indication or reasonable inference that the landlord intended to hold the tenants for any further period. On the contrary, the landlord made a new letting with the Leahy Motor Car Company, of which the defendants-respondents had been advised and upon which they were justified and actually did rely upon, so that there was no way, in the case at bar, in which Leahy Motor Car Company could have been evicted or otherwise disposed of by the defendants-respondents on and after April 1, 1931. The plaintiff-appellant contends that this new letting to the Leahy Motor Car Company from April 1, 1931, was subsequently modified. This modification (Exhibit D-5, Case p. 71) was, however, merely to the effect that he (John J. Leahy) was not to pay rent and this, of course, could in no way affect the situation between the defendant-respondent Hillas Motor Car Company and Blanchard Securities, Inc., plaintiff-appellant. It is a fact that the Leahy Motor Car Company became the tenant of Blanchard Securities, Inc., on and after April 1, 1931, irrespective of any rental arrangement between them. The Hillas Motor Car Company and The Bonnell Company, on and after that date, lost all power and right to treat John J. Leahy as their tenant because of this new letting by Blanchard Securities, Inc., to John J. Leahy. This arrangement between the plaintiff-appellant and John J. Leahy, coupled with the fact that the plaintiff-appellant accepted

a check for rent for the period between March 1, 1931, and March 15, 1931, and further coupled with the fact that Blanchard Securities, Inc., knew that the defendants-respondents did not intend to renew the lease or remain in possession of the premises, would indicate beyond a doubt that there was no intention on the part of Blanchard Securities, Inc., to hold the defendants-respondents as holdover tenants.

The case of *Maier v. Champion, supra*, lays down the fact that a controlling factor in holding a tenant as a holdover is the payment and acceptance of rent for a portion of the new term. In the case at bar, there was neither the payment nor the acceptance of such rent.

The case of *Leonard v. The Spicer Manufacturing Co.*, 103 N. J. L. 391, is a case directly in point with the one under consideration. It appears in that case that there was a lease for two years, at an annual rent of seven thousand dollars (\$7,000), payable quarterly in advance on the fifteenth days of July, October, January and April. The evidence showed that the tenant remained in possession for one month after the two-year term and then abandoned the premises. Immediately prior to the expiration of the term, the landlord wrote the tenant enclosing bills for rent and advising the tenant that the lease would expire unless he (tenant) availed himself of the option to renew. The tenant ignored the matter and held over for one month. The tenant then wrote the landlord intimating that he had held over by "mistake in reading the time of expiration of our lease" and enclosing a check for one month's rent, to which the landlord replied, returning the check.

The complaint was in three counts. "The third related to the claim for repairs and is now out of the case. The first claimed rent for three years

as on a renewal under the option. This was withdrawn at the trial. The second count, which was pressed and which was decided, claimed a year's rent on the theory that the defendant had become a tenant from year to year. The lower court nonsuited on this ground and permitted a recovery of a month's rent for use and occupation."

The Court of Errors and Appeals decided:

"There is no evidence that at any time there was a consent of the landlord to a general holding over so as to support a tenancy from year to year."

This rule has been consistently followed and has been laid down as early as the case of *Den v. Adams*, 12 N. J. L. 99, in which case Chief Justice EWING said:

"As a general rule, where the term is for a fixed period of time and the period has expired, the tenancy is determined and the landlord may immediately maintain an ejectment to recover the possession. When the tenant, whose term has expired by efflux of time, instead of quitting the premises as he ought to do, remains in possession holding over as it is called, he is a wrongdoer and may be treated as such by the owner, his landlord. *By the consent* of his landlord, his tenancy may be continued, and if such continuance by consent be without any fixed limit, he becomes a tenant from year to year, as it is called. This consent may be either express or implied, actual or constructive, by words or by some act recognizing or treating him as a tenant, *but without a new contract or some act on the part of the landlord from which a renewal of the contract may be implied*, the person in possession continues as a wrongdoer."

The above-mentioned rule has been consistently followed and cited with approval repeatedly in the

following cases: *Stanley v. Horner*, 24 N. J. L. 511; *Moore v. Moore*, 41 N. J. L. 515; *Condon v. Barr*, 47 N. J. L. 113; *Yetter v. King Confectionery Co.*, 66 N. J. L. 491. The case at bar also fails to show the consent and election of the landlord to hold the tenant as a holdover. There was no new contract or any act on the part of the landlord from which an inference may be drawn that he intended to hold the defendants-respondents for any subsequent term. As previously stated, his behavior and negotiations showed a distinctly contrary intention, inasmuch as prior to the expiration of the original lease, he made arrangements with John J. Leahy, the tenant in possession, for a renewal, and further accepted the check from the defendant-respondent Hillas Motor Car Company for rent for the period from March 1, 1931, to March 15, 1931.

In the case of *Yetter v. King Confectionery Co.*, 66 N. J. L. 491, the Court decided on the question of whether or not the holding over had created a tenancy from year to year, that it had created such a tenancy. They based their decision on the ground that the landlord *had consented* to the continued occupancy of his property *by reason of the payment and acceptance of rent*, and that the words and conduct of the parties both indicated a very clear intention that this holdover tenancy be created between them.

In *Stanley v. Horner*, 24 N. J. L. 511, wherein it appeared that a tenant had remained in possession after the expiration of the term, over six months, the Court said:

“If the tenant continued in possession by the consent of the landlord, either express or implied, and evidenced by some act or conduct on the part of the landlord, he became a tenant from year to year, and if he held over

without such consent, he became a tenant at sufferance."

In the case of *Condon v. Barr*, 47 N. J. L. 113, the question was whether the fact of a demand for rent served by the landlord upon one holding over after a definite term has ended, proves unequivocally his assent to the continuance of the tenant in possession, so as to convert the estate at sufferance to a tenancy from year to year. The Court held there that the *receipt of rent* by the landlord from one so holding over, indicates with certainty a design to continue the relation of landlord and tenant, and a tenancy from year to year will arise, but the Court goes on:

"A mere demand for rent by a landlord upon the tenant holding over, does not of itself indicate the landlord's consent to the wrongful holding over so as to give rise to a tenancy from year to year."

The question has received consideration and comment in the note to the case of *Kuhlman v. Lemp*, 29 L. R. A. (N. S.) 177, the note being as follows:

"Nor is the tenant bound where notice is required of the lessee's intention to claim the extended term, unless notice is given or the intention be otherwise manifested, and it has been repeatedly held that *a naked holding over is insufficient* to warrant a finding that the lease has been extended" (citing cases).

The rule of holdover to create a tenancy from year to year does not stop with the tenant's mere continuance in possession. The Court of Errors and Appeals in *Mershon v. Williams*, 62 N. J. L. 779, held as follows:

"The weight of authority sustains that position and if no notice is stipulated for, the

tenant's mere continuance in possession and paying rent, though with no express notice of his desire for the further term, entitles and binds him thereto."

In the case of *Mershon v. Williams, supra*, the Court further emphasizes the fact that there must be the payment and acceptance of rent or some other express indication on the part of the landlord and tenant that a holdover tenancy be created.

In the case at bar, there was neither the payment nor the acceptance of rent, nor any indication on the part of the landlord to hold the tenant for any further period.

In the cases where the tenant is held to have indicated an election to stay, the holdover and the payment of rent were the circumstances that justified the assumption that the tenant intended to remain, and the landlord, accepting the rent, thereby created a tenancy.

The Court did not err in rendering judgment in favor of the defendant The Bonnell Company and against the plaintiff, even though there was a provision in the original lease to the following effect: "It is further agreed that none of the liabilities of the lessee herein shall be minimized, modified or impaired, by virtue of any sublease or underlease created by it."

It is undoubtedly fundamental that the parties intended to bind themselves only for such liabilities as would arise under the lease, but the original lessee, The Bonnell Company, could not in any way have anticipated that its subsequent lessees would bind themselves for any further period of time other than to March 15, 1931. The Bonnell Company cannot be penalized for the mistake which the Hillas Motor Car Company made in subleasing to Leahy Motor Car Company until March 31, 1931, inasmuch as the original lease ran

only until March 15, 1931, and while the defendant-respondent Hillas Motor Car Company is liable for the sum of one hundred sixty-six dollars and sixty-seven cents (\$166.67) for use and occupation, The Bonnell Company, on the other hand, is not liable.

CONCLUSION.

We, therefore, respectfully submit:

That the judgment of the Supreme Court should be affirmed in its entirety, in favor of the defendants-respondents.

Respectfully submitted,

FRANK W. LONG,
Attorney for and of Counsel
with Defendants-Respondents.

New Jersey Court of Errors and Appeals

BLANCHARD SECURITIES, INC., a
corporation of New Jersey,
Plaintiff-Appellant,

vs.

THE BONNELL COMPANY, a cor-
poration of New Jersey, for-
merly Bonnell Motor Car Co.,
Inc., and HILLAS MOTOR CAR
COMPANY, a corporation of
New Jersey,
Defendants-Respondents.

On Contract.
On Appeal from
Supreme Court.

BRIEF OF PLAINTIFF-APPELLANT.

Statement of Facts.

On October 23, 1925, Blanchard Securities, Inc., plaintiff-appellant, leased certain premises at 76-78 Franklin Place, Summit, New Jersey, to defendant-respondent Bonnell Motor Car Co., Inc., "for a period beginning on the first day of January, 1926, or at such time within a reasonable time thereafter, as said building shall be finished and ready for occupancy, said occupancy being certified to by William E. Lehman, architect, and terminating on the thirty-first day of December, 1930, in the event that possession is obtained on January 1, 1926, but in the event that possession is obtained at a later date, then the period of this lease is to end five (5) years from the beginning of said occupancy" (Exhibit P-1, Case p. 48). The rental stipulated in the lease (Exhibit P-1, Case

p. 49) was the sum of four thousand dollars (\$4,000) per year, payable in equal monthly installments of three hundred thirty-three dollars and thirty-three cents (\$333.33) on the first business day of each and every month, in advance, during the aforesaid term, which turned out to be March 15, 1926-March 15, 1931.

By paragraph ten of this lease it was provided that the lessee, The Bonnell Company, should have the right to sublet or underlet the demised premises and the lessee agreed not to assign the lease; that upon subletting or underletting the sublessee or underlessee would assume in writing the terms of the lease and that an original agreement of that character would be delivered to the lessor prior to the beginning of the occupancy by such sublessee or underlessee, and that none of the liabilities of the original lessee should be "minimized, modified or impaired by virtue of any sublease or under-lease created by it" (Case p. 54).

On or about October 25, 1927, the original lessee, The Bonnell Motor Car Company, sublet the whole premises to the Hillas Motor Car Company for the balance of the term, and the Hillas Motor Car Company so advised the landlord, Blanchard Securities, Inc., and agreed to "assume the provisions of all the terms of said lease" (Case p. 58, Exhibit P-2).

On March 1, 1929, Hillas Motor Car Company sublet the premises in question to John J. Leahy, trading as Leahy Motor Car Company, **for the period commencing March 1, 1929 and terminating March 31, 1931** (Exhibit D-4, Case p. 62). On April 18, 1929, Blanchard Securities, Inc., by its president, William L. Blanchard, wrote Hillas Motor Car Company that "we agree to give our consent to the Hillas Motor Car Company to sublet the premises at Nos. 76-78 Franklin Place,

Summit, New Jersey, to the Leahy Motor Car Company for the full term of our lease with the Bonnell Motor Car Company, dated April 23, 1925; provided, however, that this does not in any way release the Bonnell Motor Car Company from their lease with us herein referred to, neither the Hillas Motor Car Company from the provisions of this lease they assumed when the Bonnell Motor Car Company sublet the premises to them" (Exhibit D-2, Case p. 60). This letter was written more than a month after the lease from Hillas Company to Leahy was executed, and it can be seen that Blanchard Securities, Inc., did not know that a written lease to Leahy was in existence, it never at any time having received a copy thereof (William L. Blanchard's testimony, Case p. 36, line 40; p. 37, line 30). Therefore, Blanchard Securities, Inc.'s consent was to a sublease to March 15, 1931, date of expiration of the original lease and not to March 31, 1931, an error Hillas Motor Car Company is to blame for, as Blanchard Securities, Inc., never saw the lease to Leahy, neither did it receive a copy thereof, nor did it in anywise concur in the extension to March 31st. The Bonnell Company is responsible for the error because it agreed in its lease that "none of the liabilities of the lessee hereunder shall be minimized, modified, or impaired by virtue of any sublease or underlease created by it".

On February 18, 1931, Blanchard Securities, Inc., agreed to rent the premises to Leahy Motor Car Company, commencing with April 1, 1931 (Exhibit D-1, Case p. 59), but on March 26, 1931, while Leahy Motor Car Company was still in possession under its lease from Hillas Motor Car Company, this arrangement with Leahy was cancelled and the commencement thereof postponed until the plaintiff, Blanchard Securities, Inc., obtained legal

possession of the building (Exhibit D-5 which is reverse side of Exhibit D-1, Case p. 71). No lease to Leahy was ever executed by Blanchard Securities, Inc., because Blanchard Securities, Inc., elected to hold Bonnell and Hillas Companies as hold-over tenants for another year and Leahy's possession beyond March 31, 1931, is that of a trespass, and, as before stated, under no valid arrangement with Blanchard Securities, Inc.

As already stated, the original lease expired on March 15, 1931. Therefore, if The Bonnell Company or its sublessee, Hillas Motor Car Company, did not intend a renewal, it became the duty of either or both to have the premises delivered up to the lessor or else suffer the legal consequences of the lessor's election, which the law gives solely to a lessor, of either ejecting the lessee or regarding the lessee as a tenant for another year by virtue of the hold-over from March 15, 1931-March 31, 1931, on the part of Hillas Motor Car Company through Leahy-Blanchard Securities, Inc., elected to hold Hillas Motor Car Company for another year (Case p. 45, lines 20-30).

On April 1, 1931, Blanchard Securities, Inc., filed a State of Demand against The Bonnell and Hillas Companies demanding rent from March 15-April 15, 1931, representing the first hold-over month, in the sum of three hundred thirty-three dollars and thirty-three cents (\$333.33), the rental under the original lease (Case p. 9, Suit No. 149433).

On April 21, 1931, Blanchard Securities, Inc., filed a second suit against the two respondents demanding rent from April 15-May 15, 1931, the second hold-over month, in the sum of three hundred thirty-three dollars and thirty-three cents (\$333.33) (Case p. 20, Suit No. 150311).

On May 29, 1931, suit for the third hold-over month (May 15-June 15, 1931) was filed (Case p. 30, Suit No. 151974).

All three suits were instituted in the First District Court of Newark and came on for trial before Judge McMAHON on June 25, 1931. In a written decision (Case p. 72) the District Court in the first suit rendered a verdict for The Bonnell Company and a verdict for the plaintiff against Hillas Motor Car Company in the sum of one hundred sixty-six dollars and sixty-seven cents (\$166.67), for rent up to March 31, 1931. Judgments in the other two suits were given for the defendants-respondents (Case pp. 74 and 76).

Appeal to the Supreme Court by Blanchard Securities, Inc. resulted in an affirmance of the District Court's dispositions (Case 86, Opinion of Supreme Court).

The contention of Blanchard Securities, Inc. is that the Supreme Court erred in not holding The Bonnell Company and Hillas Motor Car Company as hold-over tenants and in awarding the present appellant a judgment in each of the three District Court cases for three hundred thirty-three dollars and thirty-three cents (\$333.33), one month's rent, against both defendants. The judgment in the first case against Hillas Company for one hundred sixty-six dollars and sixty-seven cents (\$166.67) conclusively establishes the contention of a hold-over and is contradictory to the judgment in its entirety.

Grounds of Appeal.

1. The Supreme Court erred in that it affirmed the judgments of the First District Court of the City of Newark, whereas it should have reversed the same and directed the entry of judgments in favor of the appellant and against both respondents in the sum of three hundred thirty-three dollars and thirty-three cents (\$333.33) each.

ARGUMENT.

POINT I.

Lease between Hillas Motor Car Company and Leahy extended beyond date of expiration of original lease (March 15, 1931) and actual occupancy thereunder by Leahy beyond March 15, 1931, subjected The Bonnell and Hillas Companies to a hold-over tenancy for another year.

The lease between Blanchard Securities, Inc. and The Bonnell Motor Car Company, Inc., dated October 23, 1925, for a term of five years expiring on March 15, 1931, is the only lease made by the appellant-lessor concerning the premises in question, and is the one upon which liability of the two defendants-respondents is incidentally predicated (Case p. 48). Hillas Motor Car Company assumed the provisions of all the terms of the said lease (Case p. 58). If neither The Bonnell Company nor the Hillas Company desired to renew the lease it became the duty of either or both to have the premises vacated and possession delivered up to the appellant on or before March 15, 1931, or be bound for another year under the same terms and obligations of the lease, at the sole election of the appellant.

On March 15, 1931, the situation was as follows: Hillas Motor Car Company was in possession of the leased premises through Leahy Motor Car Company, who was its tenant, and not that of the appellant. The Hillas Company up to this time paid to the appellant the rent due under the original lease. Hillas Motor Car Company permitted

Leahy Motor Car Company under its lease with Leahy to stay until March 31, 1931, a period of fifteen days beyond the expiration of the original lease. The appellant had the sole election as to what recognition should be given to the hold-over occupancy and it unequivocally decided to treat Hillas Company as a tenant for another year (Case p. 45, line 30).

Whatever the intentions of The Bonnell or the Hillas Companies were or may have been, in this respect, are immaterial, because the landlord alone has the option of either treating the tenant as a trespasser or as a tenant, and the landlord's intentions in respect hereto solely govern. The appellant demanded rent from March 15, 1931 to April 15, 1931, in advance, and in the sum of three hundred thirty-three dollars and thirty-three cents (\$333.33) from both defendants-respondents and brought suit in the First District Court of Newark for recovery of same.

As stated before, the landlord's intention to treat Hillas Company as a hold-over tenant solely controls, regardless of the tenant's intentions. The learned District Court therefore fell into error when in deciding this case it held "Before March 15, plaintiff knew that The Bonnell Motor Car Company did not intend to renew its lease and knew that Hillas Motor Car Company had made a lease to Leahy that purported to expire March 31st, and knew that Hillas Motor Car Company would not occupy the premises after March 15th" (Case p. 72). The Supreme Court concurred in this finding, quoting verbatim in its opinion the above language of the District Court (Case p. 88, line 39; p. 89, line 15).

Before citing authorities to prove the inaccuracy of the District Court's and Supreme Court's conception of the law, emphasis should now be laid

on the point that the Hillas or The Bonnell Companies had to deliver over possession of the leased premises to the appellant by causing same to be vacated on or before March 15, 1931, if both had no intention of renewing the lease. The consequences of the hold-over beyond March 15th cannot be avoided merely by their intentions not to renew, as their intentions are immaterial; the landlord's intentions in the event of a hold-over govern.

Corpus Juris states the rule as follows: "Except where it is otherwise provided by Statute, where a tenant under a lease for a definite term holds over his term without a new agreement, the landlord may either treat him as a tenant or turn him out as a trespasser (Citing *Condon v. Barr*, 47 N. J. Law 113; *Den v. Adams*, 12 N. J. Law 99). But a tenant has no election as to what he may do. If he holds over, although for a short time without any equivocal act at the time to give his holding the character of a trespass, he is not at liberty to deny that he is a tenant if the landlord chooses to hold him to that relation and, on the other hand, he cannot claim the rights of a tenant by holding over unless with the lessor's consent and while there is some authority to the contrary, it has generally been held that his intention at the time he holds over is entirely immaterial in determining the effect of his act and cannot operate to change the rule. Notice by the tenant to the landlord that he does not intend to hold for another term will not protect him, in the absence of any assent by or new agreement with the landlord" 35 *Corpus Juris* 1029, Section 167-b—Subtitle "Lessor's Option to Recognize". See also 16 *Ruling Case Law* 1167, Sec. 688—*Den ex dem. Decker v. Adams*, *supra*; *Condon v. Barr*, *supra*; *Maier v. Champion*, 97 N. J. Law 493, 117 Atl. Rep.

603; *Beach Realty Co. v. City of Willdwood*, 105 N. J. Law 317, 144 Atl. Rep. 720; *Weber v. Powers*, 213 Ill. 370, 72 N. E. Rep. 1070, 68 L. R. A. 610; *Waterman v. Le Sage*, 142 Wis. 97, 124 N. W. Rep. 1041; *Kennedy v. City of New York*, 196 N. Y. 19, 89 N. E. Rep. 360; that a tenant holding over is bound for another year, not because of an express contract but by implication of law springing from the circumstances. *Haynes v. Aldrich*, 133 N. Y. 287, 31 N. E. Rep. 94; ***United Merchants Realty Co., etc. v. Roth***, 193 N. Y. 570, 86 N. E. 544, where it was held that a hold-over tenancy is not created by the assent of the parties but against the tenant's volition and arises from the law's will to penalize a trespassing tenant.

Therefore, whatever the appellant knew about the intentions of Hillas or The Bonnell Companies is of no consequence, since the appellant did not concur therein but unequivocally expressed its intention to treat Hillas Company as a hold-over tenant for another year by virtue of the hold-over beyond March 15, 1931.

Referring again to the first suit instituted in the First District Court of Newark, the Court in its decision found as a fact there was a hold-over by the Hillas Motor Car Company from March 15-March 31, but instead of awarding judgment in the full sum of three hundred thirty-three dollars and thirty-three cents (\$333.33), it only awarded a sum for one month's rent (\$166.67) against only Hillas Company, on the apparent theory of use and occupation. Assuming, without admitting, on this phase of the case, that the Court was correct, judgment for this amount should also have been directed against The Bonnell Company, because it never was released from its obligations under the lease. This finding of the District Court is irreconcilable because, if there is a hold-over, it

cannot be only for an arbitrary period of fifteen days, instead of for one year, as contended by the appellant.

In accordance with the Court's disposition of the first suit, judgments in the second and third were rendered for both defendants-respondents, whereas in all three, judgments should have been directed in favor of the appellant in the sum of three hundred thirty-three dollars and thirty-three cents (\$333.33) each, against both defendants.

Another point which the District Court and Supreme Court took under view is the status of Leahy, the District Court stating as a means to its conclusion "Plaintiff and Leahy, before March 15, knew that Leahy would stay in possession of the premises after March 15th to March 31st, after which Leahy remained in possession under some arrangement with plaintiff" (Case p. 72, lines 31-35).

Under the authorities before cited, it is immaterial whether the appellant knew Leahy would stay in possession from March 15 to March 31, 1931 (see also *Tolle v. Orth*, 75 Ind. 298). Leahy had no right to be in possession beyond March 15, as that is the date the lease of The Bonnell Company expired. Hillas Company, of course, is responsible for Leahy's occupancy up to March 31. **But between March 15 and March 31, the appellant secured a cancellation of an executory agreement entered into with Leahy about two months previous** (Case pp. 59 and 71) and so admitted by Leahy as a witness for the defendants (Case p. 42, line 28, *et seq.*). Therefore, Leahy was a real trespasser after March 15th, he not having obtained a lease from the appellant and the testimony of Leahy bears this out; that he paid no one rent after March 31, 1931. It, therefore, follows that Leahy's continuance in possession after March 31,

1931 was of no concern to the appellant, because it elected before March 31, 1931, to hold The Bonnell and Hillas Companies as tenants for another year (Case p. 45, line 30), and it looked to them for rent as each hold-over month accrued, regardless of their intentions in the premises, and irrespective of whether they exercised the use of their lease. If Leahy's possession at any time can be considered under an arrangement with the appellant, it could not have been such before April 1, 1931 (Case p. 59), but there is no legal excuse for Leahy's possession between March 15 and March 31, 1931. As before stated, the agreement by and between the appellant and Leahy for a lease commencing April 1, 1931, was modified, if not cancelled (Case p. 42, line 28, *et seq.*, and p. 71) with the result that Leahy never received the sanction of the appellant to occupy the premises. The District Court's finding in this respect, above alluded to, has no evidence to support it, and is also erroneous because of the significant fact that suit by the appellant against both defendants was instituted on April 1, 1931 (Case p. 3).

The Supreme Court fell into the same error. In its opinion it stated "because there were proofs upon which the Court below could and did find that the plaintiff-appellant did not recognize and act toward the Hillas Company as a tenant after March 31, 1931" (Case p. 90, lines 20, *et seq.*).

The Supreme Court, therefore, erred in not reversing the District Court so far as Hillas Motor Car Company is concerned, and directing the entry of judgment against Hillas Company in all three suits for three hundred thirty-three dollars and thirty-three cents (\$333.33) each. The lease in question provided for an annual reserved rental of four thousand dollars (\$4,000) payable in equal monthly installments of three hundred thirty-

three dollars and thirty-three cents (\$333.33), in advance on the first day of each business month. The criterion for determining the duration of the hold-over tenancy is the reserved rental. The rental being annual, the hold-over tenancy in the case at bar is for another year.

Kennedy v. City of New York, 196 N. Y. 19, 89 N. E. Rep. 360;

Maier v. Champion, 97 N. J. Law 493.

Turning now to the status of The Bonnell Company, it is only reasonable to assume that the appellant in entering into the lease with The Bonnell Motor Car Company, Inc., did so with the assurance and knowledge of The Bonnell's responsibility as a tenant of a valuable leasehold. This appears all the more so when paragraph ten of the lease, which provides as follows, is perused: "It is agreed that the lessee shall have the right to sublet or underlet the demised premises or any part thereof for the uses and purposes specifically above limited, and the lessee agrees not to assign this lease or the term demised by virtue of this Indenture. In the event of subletting or underleasing of the entire premises, the sublessee or underlessee will assume in writing the provisions of the term of this lease on the part of the tenant, and an original executed agreement of this character will be delivered to the lessor prior to the beginning of the occupancy of said sub-lessee or under-lessee. It is further agreed that none of the liabilities of the lessee hereunder shall be minimized, modified or impaired by virtue of any sublease or underlease created by it" (Case p. 54). Therefore, although the appellant consented to the sublease to Hillas Motor Car Company, The Bonnell Company was in no wise released, and it became incumbent upon it to see that its sublessee,

Hillas Motor Car Company, delivered up possession on March 15, 1931, the date of expiration of its lease, so as to avoid a hold-over tenancy for another year. In *16 Ruling Case Law* 1165, the rule is stated to be: **"Where the lessee has sublet the premises, the duty devolves upon him to see that his subtenant vacates the premises and he may be held for another term on account of a holding-over by the subtenant"**, citing *Haynes v. Aldrich*, 133 N. Y. 287, 31 N. E. 94.

One more point should be stressed before coming to a conclusion, and that concerns the appellant's intention in respect to his election to hold the respondents as hold-over tenants. It is self-apparent that up until the expiration of the main lease, to wit, March 15, 1931, there could be no election because the appellant did not know whether or not the premises would be actually vacated. Hence, of course, the circumstances surrounding this case on and after March 15, 1931, and not prior thereto, determine the appellant's intention to treat the respondents as hold-overs. The intention of the appellant is unequivocally to the effect of treating the respondents as hold-over tenants for another year. The case at bar presents a different situation from that in the case of *Leonard v. Spicer Manufacturing Co.*, 103 N. J. Law 391, 139 Atl. Rep. 15, a case relied upon by the respondents in the Supreme Court. In that case, the landlord regarded the hold-over as an exercise of an option to renew and at the trial contended that his intention was to treat the tenant as a hold-over for another term. In the case at bar, the appellant, as repeatedly stated, intended to treat respondents as hold-overs for another year, which intention is unequivocal and not qualified in any wise by the respondents.

CONCLUSION.

It is respectfully submitted that the judgment of the Supreme Court should be reversed and that a judgment for three hundred thirty-three dollars and thirty-three cents (\$333.33) be directed to be entered in each of the District Court suits, Nos. 149433, 150311 and 151974, against both defendants-respondents.

Respectfully submitted,

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