

had been living at the premises for any part of the time during the thirty days immediately preceding the fire, is the issue." *Ib.* The testimony of the plaintiff required the submission of this issue to the jury. The defendant argues that "the term 'occupancy' means a practical use of the premises for the purposes intended and occupancy that measurably lessens the vigilance and care that would be incident to its use for such purpose, is not an occupancy within the meaning of the term as it is employed." This contention is inconsistent with the above decision and is otherwise without merit. In accordance with the stipulation of the defendant, there must be

Judgment for the plaintiff.

Strafford, }
Dec. 1, 1936. }

JAMES E. WATKINS CO. INC. *v.* PETERSON MOTOR EXPRESS.

William H. Sleeper (by brief), for the plaintiff.

Devine & Tobin (by brief), for the defendant.

Per Curiam. The business and experience of the witness entitled the court to find as a reasonable inference that he was familiar with the market value of automobile trucks of all sizes and both new and used. The defendant's chief contention, however, is that the witness had not seen the plaintiff's truck before, and especially after, the accident. The hypothetical questions asked the witness assumed

a description of the truck and of the extent and nature of the damage to it which were warranted by the evidence. It is not to be said as a matter of law that a reliable opinion of the loss of value the accident caused could not be formed from such description, although the witness had not personally inspected the truck. If the inspection would have credited the testimony with more weight, yet inspection was not here required as a condition of some weight. The conclusion of the witness was essentially one of fact, and the due finding that he had special qualification so that it might be of some aid to the jury authorized the court to admit it. *Harris v. Smith*, 71 N. H. 330, 332.

Judgment on the verdict.

PAGE, J., was absent.

Merrimack, }
Dec. 1, 1936. }

JUDGE OF PROBATE *v.* JOHN F. DALY.

Demond, Woodworth, Sulloway, Piper & Jones (Mr. Piper orally),
for the heirs.

John F. Daly (of Massachusetts), furnished no brief for the administrator.

Per Curiam. The case is wrongly entitled. It should be in the name of the administrator as the appellant against the decedent's heirs as the appellees.

The exception presents no question of law.

Exception overruled.

PAGE, J., was absent.