

F.L.O.

Department of the Interior,

E.V.M.

Washington, July 18, 1895.

Vol. 21- 895.

William Innis,
vs.
Newman J. Burton.

Lot 3, Block 24,
Edmond, Oklahoma.

The Commissioner of the
General Land Office.

Sir:

The townsite of Edmond, Oklahoma, was entered by the townsite board on the 20th of December, 1890, and lot 3 of block 24, was applied for by the above named contestant, William Innis, on the 18th of January, 1891, and by the contestant, Newman J. Burton, on the 20th day of the same month. The townsite board found for Burton, and Innis appealed. The Commissioner of the General Land Office reversed the townsite board, and awarded the lot to Innis, and then improved the lot in good faith for purposes of trade, and was in possession and occupancy of the lot. There is no error in the decision of the Commissioner of the General Land Office, Innis was the first applicant of the lot. He took possession of it in May, 1891, and during the summer of that year he built a small house on it and...

Assignment, 1871 18: 1882

Assignment of the Interest

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it to a harness dealer named Grantham, who soon afterwards employed Burton as a salesman on commission. While thus employed Burton was a part of the time travelling through the country, and a part of the time in the house with Grantham. Grantham continued to pay rent and occupy the house until in November, 1885, when he turned it over to Burton, and left it, Inmis' health being very bad, he had gone to Denver for a change of climate, and Burton continued to occupy the house as a shoe store until the land was entered as a townsite. He paid rent regularly by the month to Inmis' agents, for six or seven months at the rate of \$3 per month. In May, 1890, he ceased to pay rents, but he did not radically deny Inmis' right, or openly set up a claim for himself, until he applied for deed.

Burton is not entitled to deed. He entered into possession of the lot, and has occupied it from first to last, as Inmis' tenant; and such occupancy has not invested him with any right as against his landlord, and could not do so, no matter how long continued.

The proof is evident that Inmis settled upon and improved the lot in good faith for purposes of trade, and was in possession and occupancy in the meaning of the statute at the date of the entry of the land as a townsite.

by the Commission and by the...
Commissioner of the General Land Office
is to a person named... who soon afterwards...

Counsel for Burton argues that as Innis did not re-
side on the lot, and had removed from the Territory, he is not
entitled to deed. This is a mistaken view. Occupancy of
a town lot may be maintained by tenant. Of course, such occu-
pancy must be in good faith, and attested by substantial im-
provements, the ability of the claimant, and the purposes for
the lot,
which he uses or intends to use, being considered. He is
not required to reside upon the lot unless he takes it for
purposes of residence.

The decision of the Commissioner of the General Land
Office is affirmed, and the papers are herewith returned.

Very respectfully,

Hoke Smith

Secretary.