

1895

\*April 2.

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T. EATON CO. v. SANGSTER.*Negligence—Infant—Contributory negligence.*

APPEAL from a decision of the Court of Appeal for Ontario (1), affirming the judgment of the Divisional Court (2) in favour of the plaintiff Sangster.

The action was brought by plaintiff, as next friend to his infant son, to recover damages for injuries sustained by the son from a portable mirror falling upon him when in defendants' store in Toronto with his mother. The trial judge found that there was no evidence of negligence by defendants to be submitted to the jury, and dismissed the action. The Divisional Court reversed his decision and ordered a new trial, and its judgment was affirmed by the Court of Appeal.

The Supreme Court, after hearing counsel for the appellants, dismissed the appeal without calling upon counsel for the other side.

*Appeal dismissed with costs.*

*Shepley* Q.C. for the appellants.

*McGregor* for the respondent.

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\*PRESENT :—Sir Henry Strong C.J., and Fournier, Taschereau, Sedgewick and King JJ.

(1) 21 Ont. App. R. 624.

(2) 25 O. R. 78.