

Case No. 17,546.

WHITE v. CROSS.

[2 Cranch, C. C. 17.]³

Circuit Court, District of Columbia.

Dec. Term, 1810.

DISTRESS FOR RENT—REPLEVIN—ASSIGNMENT BY LESSOR—EVIDENCE.

1. Upon the issue of “no rent arrear,” the plaintiff in replevin will not be permitted to show that the defendant “had nothing in the tenements.”
2. An assignment by the lessor, during the term, without attornment, does not prevent the lessor from distraining.
3. In replevin for goods distrained for rent, the defendant cannot give evidence of the value of the use and occupation.

Replevin. Avowry for rent. Plea, no rent arrear, and issue.

THE COURT (THRUSTON, Circuit Judge, absent,) refused to permit the tenant to give in evidence, a deed in fee from Cross to Prout, made within the term, without attornment, to show that Cross had no right to distrain; the only issue being “no rent arrear,” which admits the demise, and precludes the tenant from showing that the defendant had nothing in the tenements. The court also refused to permit the defendant, Cross, to give evidence of the value of the use and occupation of the house; as he could only distrain upon a special agreement for a sum certain.

³ [Reported by Hon. William Cranch, Chief Judge.]