

be allowed if they were for work that would properly be costs of the arbitration if done after the date; for example, fee perusing the order of the Railway Commissioners giving leave to appropriate, and taking instructions.

2. The owner was entitled to tax the fees paid to the arbitrators as taking up the award. *Shrewsbury v. Wirral* (1895) 2 Ch. 812 distinguished.

3. Counsel fees allowed by the taxing officer were reduced to \$100 per day for first counsel and \$75 per day for second counsel.

4. The fees actually paid to expert witnesses should not necessarily be allowed, but only fair and reasonable fees for the time occupied in attending before the arbitrators and in qualifying themselves to give evidence.

5. The costs of the taxation, including a fee of \$25 for the argument before the judge, should be borne by the company.

*A. B. Hudson, and Ormond, for Robinson. Clark, K.C., for the railway company.*

## Province of British Columbia.

### SUPREME COURT.

Full Court ]

HUNTING v. MACADAM.

[April 29.

*Landlord and tenant—Forfeiture of lease—Relief against—Non-payment of rent excused by oral assurance—Authority of landlady's husband—Mental incompetence—Knowledge of tenant.*

Plaintiff as lessee, and defendant, as lessor, on January 1, 1906, entered into a lease for a term of five years at a rental of \$70 per month, in advance, with a proviso for forfeiture and re-entry after 15 days' default in payment of rent, together with an exclusive option of purchase on terms named. Plaintiff being absent in December, 1906, and up to January 23, 1907, inadvertently allowed the rent for January to fall into arrear, but on the latter date tendered defendant, through her solicitor, she herself being inaccessible, the rent for January and February, and also offered to defray any costs incurred. Defendant had in the meantime, through her bailiff, taken and retained possession. There was evidence of an oral arrangement that in the event of the plaintiff's absence at any time the forfeiture clause for non-payment in advance would not be enforced.