

reinstatement or anything contained in it, because a copy of the application had not been attached to the policy.

The learned Judge said that the "application" referred to in the policy, from the context, meant the application for the policy itself, and not an application for reinstatement. In his opinion, the application for reinstatement and its acceptance did not constitute a new contract; and what had to be determined was whether or not the condition as to reinstatement contained in the policy was fulfilled according to its terms. The defendants did in fact reinstate the policy, upon evidence which they considered satisfactory.

When the condition for reinstatement is worded as it was in the policy here, the defendants cannot be permitted, in the absence of fraud, to reopen the question whether or not the evidence upon which they acted in reinstating the policy was satisfactory.

Even if Leeper exceeded his real authority in writing untruthful answers to any of the questions, that did not make him Bird's agent. Apart from the provisions of sec. 85 of the Insurance Act, there is ample authority for holding that Leeper, acting as he was with real authority to obtain from Bird the application for reinstatement, must be deemed to have been clothed with full authority, short of fraud on Bird's part, for everything that he did: *Hastings Mutual Fire Insurance Co. v. Shannon* (1878), 2 Can. S.C.R. 394, and other cases.

The jury's findings in regard to question 6 in the application and Bird's answer thereto would be difficult for the plaintiff to overcome if the answers written by Leeper had been the real ones made by Bird, and if Bird had concealed from Leeper the truth as to his having consulted a physician; but, in view of the findings of the jury that Bird was not guilty of fraud, that he signed the application in the form in which it was drawn up as the result of Leeper's statements and representations and without understanding its full meaning and effect, and that such misunderstanding was also due to Leeper's statements and representations, the findings of the jury in regard to question 6 were immaterial.

There should be judgment for the plaintiff for \$1,000 with interest and costs, and the counterclaim should be dismissed with costs.