

to give notice of any claim for compensation," that would be reasonable cause for not giving notice.

A majority of the Court adopted that view in *Wallace v. City of Windsor* (1916), 36 O.L.R. 62; and this Court was bound to follow that decision if on the facts of the case at bar it fell within either of these classes.

The injury which the appellant Mabel Fuller sustained was from the outset a serious one, though, owing partly to the directions of her medical adviser not having been followed, more serious consequences ensued than would have followed if she had obeyed his directions. She did not know until after the time for giving it had passed that it was necessary to give notice of the injury; and she was on the horns of this dilemma: either she intended from the first to claim damages or did not know that she could do so until she heard that another woman "got about \$2,000 out of the city for falling on a slippery sidewalk;" and, being herself asked when she made up her mind to make a claim against the respondent corporation, she replied that it was after the 17th November. As the injury was sustained on the 7th November, it was then too late to give the notice. The notice given was dated the 27th November, but it was not posted until the 5th December.

The appellants had failed to bring their case within the rule applicable where failure to give the notice is excused, because the appellant Mabel had not shewn that her attitude of mind was that if things continued as they were at first she would never require to give notice of any claim for compensation. Having regard to the fact that the injury was from the first a serious one, causing great pain and incapacitating her from performing her household duties, it was impossible to apply the rule." The most that she proved was that she did not at first anticipate that the result of her injury would be as serious as it ultimately turned out to be; not that it was not from the outset a serious one.

An attempt was made at the trial to establish that, owing to the administration to her of morphia, her mental condition was such that she was unable to apply her mind to business, and that that afforded reasonable excuse for not giving the notice; but the trial Judge's conclusion was that she had failed in establishing this; and in that conclusion the Court agreed.

The learned Chief Justice pointed out the hardship of the law in requiring that both reasonable excuse for not giving the notice and absence of prejudice to the corporation from the failure to give it be proved.

The appeal should be dismissed, with costs if costs are asked.

Appeal dismissed.