

MEREDITH, C.J.C.P.

APRIL 1ST, 1910.

*ROSS v. TOWNSHIP OF LONDON.

Public Health Act—Employment of Physician by Local Board of Health to Attend Smallpox Patients—Remuneration—Absence of Contract—Quantum Meruit — Action against Members of Local Board—Parties — Municipal Corporation — Condition Precedent—Inability of Patients to Pay—No Proof of—Remedy by Mandamus.

Action by a medical practitioner, who was the Medical Health Officer for the Corporation of the Township of London for 1908 and 1909, and for some previous years, against the township corporation and the persons who in 1908 constituted the Local Board of Health for that township, to recover \$2,300 for certain services.

The plaintiff's case was that in November, 1908, a number of smallpox cases appeared in the township; that he was requested by the individual defendants (the members of the Local Board of Health) to attend persons suffering from smallpox within the township; that it was agreed that he should be paid for his services at the rate of \$100 a week; that a resolution appointing him for that purpose was passed by the Board; and that he began his services on the 14th November, 1908, and continued to attend persons suffering from the disease from that day until the 24th April, 1909.

For these services the plaintiff claimed \$2,300, and asked for a mandatory injunction or order directing the individual defendants to sign, execute, and deliver an order upon the defendant corporation for the amount of his claim, and that the defendant corporation be ordered to pay the amount.

The defendants disputed the claim, and contended that in any case the charge of \$100 a week was excessive.

The resolution of the 14th November, 1908, made no reference to the rate of remuneration, but was that the plaintiff "continue in charge of the case and make every effort to prevent the spread of the disease."

J. M. McEvoy and E. W. Scatcherd, for the plaintiff.

E. Meredith, K.C., and J. C. Judd, K.C., for the defendant corporation.

T. G. Meredith, K.C., for the other defendants.

* This case will be reported in the Ontario Law Reports.