

Town of Oakville v. Andrews, 2 O. W. R. 608, Hisey v. Hallman, ib. 403, Baker v. Weldon, ib. 432, Brown v. Hazell, ib. 734, and Unger v. Brennan, 14 P. R. 294, referred to. It is open to plaintiffs to apply to the trial Judge to dispense with the jury.

Order made changing venue to Milton. Costs to defendant in the cause.

CARTWRIGHT, MASTER.

DECEMBER 19TH, 1903.

CHAMBERS.

WALL v. McNAB & CO.

*Pleading—Statement of Defence—Denial—Justification—Embarrassment—Master and Servant—Wrongful Dismissal.*

Motion by plaintiff to strike out the 2nd and 3rd paragraphs of the statement of defence in an action for wrongful dismissal of plaintiff from the employment of defendants as manager of their dressmaking and mantle departments. The 1st paragraph of the defence denied the allegations of the statement of claim. The 2nd paragraph stated that the plaintiff was employed by the week and paid a salary of \$20 per week and was not entitled to any notice of dismissal. The 3rd paragraph stated that plaintiff was not qualified for the position she undertook to fill and was incompetent to reasonably discharge the duties of such position, and by reason of such incompetency and want of qualification and of misconduct on her part was dismissed.

W. J. O'Neil, for plaintiff, contended that paragraph 1 precluded any reference to the statement of claim so as to interpret paragraphs 2 and 3.

W. A. Lamport, for defendants.

THE MASTER held that there was no possible embarrassment to plaintiff; there was no difficulty in understanding what defendants set up. The only possible ground of objection was the use of the word "misconduct" in paragraph 3. That, however, must be referable to plaintiff's employment: