

of the market committee, and to Mr. Hill, who was overseer of the market under the chairman. Some repairs were made during the fall, but they did not remove the defects, as when it rained the water still continued to come in. She again notified the chairman of the market committee in the spring, and also Mr. Hill, but nothing was done for some time. The plaintiff says that finally about the end of March, and some time after she had notified the parties, she was taken ill, and she attributes her illness to the unsanitary condition of the stall.

At the close of the evidence I reserved my decision in order to consider the authorities. I found the facts as follows: That the premises in the fall of 1911 did become unfit and unsanitary for the use for which they were given to the plaintiff; I find that she notified the parties of the condition of the stall, and that the repairs were not effective in remedying the condition of the premises; I find that notice was given after that, and that the repairs were not immediately done, or until after the plaintiff became ill, and from her own evidence and that of the medical witnesses called, I think the strong probability is that her illness was caused by reason of the unsanitary condition of the stall which she occupied. I further find that, irrespective of the notice given by the plaintiff, the defendants reserved to themselves the duty of keeping the premises in repair, and that they appointed a person for that purpose (Mr. Hill), and that it was part of his duty to inspect and see that the premises were kept in repair, and that in this regard he neglected his duty, and that the premises were not kept in repair, from which neglect the plaintiff suffered the injuries complained of.

Under these facts and circumstances the defendants contend under the authority of *Brown v. Trustees of Toronto General Hospital*, 23 O.R. 599, that they are not liable. If the plaintiff was a lessee of the stall, and the liability, if any, arose from that contractual relationship, the authority relied upon seems to be conclusive against the plaintiff's right to recover. But it was strongly urged by plaintiff's counsel that the plaintiff was a mere licensee. She occupied the stall at certain hours of three days in the week under a by-law. The by-law in substance provides: that the market clerk shall, under the control and supervision of the property committee, have superintendence of the market grounds and market buildings and all other buildings, stands, etc. Section 24: hucksters, dealers, etc., and all persons frequenting the market, and not being lessees of the market's stalls or sheds, shall have places assigned to them by the market clerk, subject to the control and direction of the property com-