

If the defendant would not accept this, the order of the Master should stand—the defendant had not complied with the order of Clute, J.

Costs of the appeal to the plaintiff in the cause.

The trial must be postponed, as the case could not well be ready for trial during the present sittings. The costs of the motion to postpone to be costs in the cause.

MIDDLETON, J., IN CHAMBERS.

JANUARY 28TH, 1918.

*HENSTRIDGE v. LONDON STREET R. W. CO.

Costs—Taxation—Fee for Solicitor Attending Trial—Per Diem Allowance Fixed by Tariff (Item 14)—Computation of "Day"—Separate Actions Tried together—Separate Fee in each Action.

Appeal by the defendants from a ruling of a local Taxing Officer upon taxation of the costs of two actions, brought respectively by a mother and daughter, who were hurt in the same accident, and sued the defendants for damages for their respective injuries. The actions were brought in the Supreme Court of Ontario, and each of the plaintiffs recovered an amount within the County Court jurisdiction. No order was made to prevent set-off. The plaintiffs' costs were taxed on the County Court scale, and the defendants' excess costs on the Supreme Court scale. In the defendants' bills, a charge was made in each action for the attendance of their solicitor at the trial. The actions were tried together. The trial began at 3 p.m. on a Monday, and lasted till noon on the following Wednesday. The Taxing Officer ruled that the trial lasted three days, and allowed \$60—holding that this must be apportioned between the two actions, or could be allowed in one only, because the actions were tried together.

H. S. White, for the defendants.

E. C. Cattnach, for the plaintiffs.

MIDDLETON, J., in a written judgment, said that the Taxing Officer was not right in either ruling.

Under item 14 of the tariff, the fee allowed to a solicitor for