

This action comes within the general provisions of the rule. If the plaintiff is required to file a statement of claim in his action even where no appearance is entered, with greater reason should he file a statement of claim after entry of appearance in which the defendant does not state that he does not require a statement of claim.

I shall tax the items in the plaintiff's bill of costs that the defendant's solicitor contends should not be allowed were no statement of claim filed, or if filed the costs thereof should be disallowed.

As I have already stated, I do not think on a notice of taxation of costs I can make any order as to the costs occasioned by the delivery of such defence.

NEW BRUNSWICK.

FULL COURT.

APRIL 23RD, 1909.

E. N. HENEY CO. LTD. v. BIRMINGHAM ET AL.

Sale of Goods—Contract—Condition Precedent to Property Passing—Possession—Principal and Agent.

Action tried at St. John Circuit Court on December 14th, 1908, before MR. JUSTICE McLEOD without a jury. Verdict for plaintiff "for one thousand dollars principal, and fifty dollars interest, in all one thousand and fifty dollars." (Reported 6 E. L. R. 385).

Motion to set aside this verdict and enter a verdict for defendants, or for a new trial, argued on January 29th, 1909, before BARKER, C.J., LANDRY, McLEOD and WHITE, JJ.

M. G. Teed, K.C., for plaintiff.

W. P. Jones, K.C. and F. B. Carvell, K.C., for defendants.

The judgment of the Court was delivered by

BARKER, C.J.:—I agree with the conclusions arrived at in this case by my brother McLeod and announced on the trial (see 6 E. L. R. 385). While I think the judgment entered for the plaintiff for one thousand dollars should