

The Ontario Weekly Notes

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CLUTE, J.

DECEMBER 3RD, 1912.

WOOD v. CITY OF HAMILTON.

Negligence—Occupant of Market Stall—Injury to Health from Unsanitary Condition—Notice to Corporation—Landlord and Tenant—Licensee—“Mere” Licensee—Invitation—Duty of Owner to Repair—Contributory Negligence—Incurring Voluntary Risk.

Action by plaintiff, a huckster, to recover damages for loss sustained from disease of her limbs and undermining of her health, alleged to have been caused by the negligence of the defendants.

W. M. McClemon, for the plaintiff.

F. R. Waddell, K.C., for the defendants.

CLUTE, J.:—The plaintiff for some 12 or 14 years carried on the business of a huckster in the market at Hamilton. During about half that period she occupied a covered place or stand outside the market buildings. About seven years ago a number of stalls were made for those carrying on the like business, but there was not a sufficient number of stalls to supply each huckster with one. However, at the request of the plaintiff she was allotted a stall next adjoining the one she now occupies and which she occupied at the time of the grievances complained of.

The first stall which she occupied was dry and as far as she knew sanitary. In 1910 she moved into the stall now occupied by her, and for about a year there was nothing noticeable in the way of wanted repair. In the fall of 1911 the stall became unsanitary, the roof leaked, the water ran in and upon the floor, and kept the place in such a condition that it was continually unhealthy and objectionable on account of its being wet and damp. I find that she gave notice verbally to the chairman