

TEETZEL, J.

JUNE 12TH, 1907.

WEEKLY COURT.

LESLIE v. TOWNSHIP OF MALAHIDE.

Municipal Corporation—Settlement of Action against—Resolution of Council Adopting Offer of Settlement—Absence of By-law and Corporate Seal—Settlement not Binding on Corporation—Rescission of Resolution — Unexecuted Consideration.

Appeal by plaintiff from ruling of local Master at St. Thomas.

W. E. Middleton, for plaintiff.

W. K. Cameron, St. Thomas, for defendants.

TEETZEL, J.:—Plaintiff obtained a judgment against defendants for \$4,000 and interest, for money advanced by plaintiff for defendants' use, which judgment was varied on appeal by direction that the amount should be reduced by any sum defendants could establish against plaintiff in respect of certain claims for damages set up by defendants, and it was referred to the Master at St. Thomas to inquire and state the amount of such damages. Further directions and the costs of the action and reference were reserved, but the costs of appeal were to be paid by defendants in any event.

After the reference had been entered upon by the Master and some evidence taken, the reference was adjourned. Pending the adjournment, and at the suggestion of plaintiff, a special meeting of defendants' council was held, on 26th January, 1907, to discuss settlement. At this meeting plaintiff submitted an offer to accept \$4,750 in full settlement of his claim, defendants to pay all costs up to reference, and plaintiff to pay the costs of the reference.

A resolution was unanimously adopted accepting the offer, and another resolution passed authorizing the reeve to notify defendants' solicitors that the case was settled, and instructing them to stay all proceedings.

No by-law was passed in reference to the matter, nor was the resolution or any memorandum of the settlement authenticated by defendants' corporate seal.