

circumstances"—see 20 O.L.R. at p. 55. And in my view, the circumstances here are not slightly, but materially different.

Here the arrangement originated with the plaintiff and the company—the company gave him premises rent free and kept them insured, they gave him free electric light for 3 months and supplied him with wood for cooking purposes free, he agreeing to “keep the fires going and the house heated without further charge to the company.” It was agreed that he should “charge the sum of 25 cents per meal served to employees,” that he should “have the money due him by the men collected through the mine office and before any man receives his time check from the mine manager,” the plaintiff should “notify in writing to the said manager the amount due by the man to the “plaintiff” and the company shall only be liable for the amount so written. Every man living in the boarding house shall live rent free, and he shall furnish his own blankets, towels and soap,” while the company was to put up ice each year and allow the plaintiff the free use of the same.

When men were employed they had no option but to board at the house kept by the plaintiff—they were told that “the board so much per day or week would be deducted from them.” A pay roll was made out, the entry for each man containing his nominal wages—and a deduction was made from this amount for the amount of the claim of the boarding-house keeper.

I am unable to see how the amount so deducted ever was due to the employee at all. He knew from the beginning that a certain (or perhaps uncertain but if so, he could make it certain) amount would be due and payable, not to him, but to the boarding house keeper under an arrangement with which he had nothing to do and against which he was powerless to contend. It seems to me that out of the sum which represented the supposed value of the labour of the employee, and which would have been “wages” under other circumstances, a part never became due to the employee at all—It would, I think be an abuse of language to speak of the transaction as an equitable assignment: the relation of debtor and creditor subsisted from the beginning.

But even if this difficulty be got over another remains:

|  |            |
|--|------------|
| The total sum payable to the plaintiff was.. | \$2,396.55 |
| there was also due for provisions.....       | 70.00      |
| and for other goods.....                     | 62.55      |

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In all ..... \$2,529.10

The parties get together, the amount is made up and settled as an account stated at \$2,529.10—\$500 is paid generally on