

HON. MR. JUSTICE RIDDELL.

NOVEMBER 14TH, 1912.

WEEKLY COURT.

NASSAR v. EQUITY INSURANCE CO.

4 O. W. N. 340.

*Insurance—Fire—Reference as to Damage—Report of Master—
Appeal from—Smallness of Finding—Over Valuation—Allegation
of Disregard of Findings at Trial by Master—Costs.*

Appeal by plaintiff from and motion for judgment by defendant on a report of the Master-in-Ordinary on a reference by the judgment herein (see 20 O. W. R. 898), as to the amount of damage suffered by plaintiff in an action on an insurance policy. The action was for \$3,000, defendants paid into Court \$1,250 while denying liability, and the Master found \$414.46 due (including interest to the date of the report).

RIDDELL, J., dismissed appeal from the report and gave judgment thereon, costs to plaintiff up to delivery of statement of defence, costs to defendant thereafter, defendants to have a set-off of costs against the judgment, and costs.

Appeal by plaintiff from and motion for judgment by defendant on a report of the Master-in-Ordinary dated June 25th, 1912.

The action was against a fire insurance company for a fire loss at the plaintiff's billiard-room in Toronto. The case came on for trial before HON. SIR WM. MULOCK, C.J. Ex.D., in November, 1911, who passed simply upon the issue as to fraud in the proofs of loss and directed the amount of the loss to be determined by the Master-in-Ordinary.

An appeal from this judgment was (with a trifling variation as to costs) dismissed by the Divisional Court (1912), 20 O. W. R. 898.

The claim was for \$3,000: the defendants while disputing that the plaintiff's loss was so much paid the sum of \$1,250 into Court as sufficient to pay the plaintiff's claim. The Master-in-Ordinary found the actual loss \$400 which with interest \$14.46 from October, 1911, to the date of the report, 25th June, 1912, made \$414.46 due upon the last mentioned day.

G. W. Mason, for the plaintiff.

W. E. Raney, K.C., and E. F. Raney, contra.