

The defendants are entitled to \$80 upon their counterclaim—as this \$80 may be set off against the plaintiff's claim as of date of notes—it is equivalent to allowing interest on the \$80.

The defendants will get costs upon their counterclaim. Thirty days' stay.

DIVISIONAL COURT.

DECEMBER 20TH, 1912.

CURRIE & STERRY v. HOSKIN.

4 O. W. N. 492.

Principal and Agent—Real Estate Brokers—Action for Commission—Authority Limited as to Time—Alleged Lapse—Evidence—Entries in Diary—Change of Reversal of Finding of Fact by Trial Judge.

Action by real estate agents for a commission. Defendant claimed that plaintiffs' authority, which admittedly had extended for ten days only, had lapsed before the introduction of the purchaser by them. WINCHESTER, Co. C.J. York, gave judgment for plaintiff for \$525 and costs.

DIVISIONAL COURT holding that sufficient weight had not been given to the insertion of an advertisement in a newspaper in which plaintiffs claimed to be exclusive agents one day previous to the time they claimed that their agency commenced and that the trial Judge's finding of fact that the agency had not terminated must be reversed.

Appeal allowed and action dismissed with costs.

Authorities as to reversal of finding of fact by an Appellate Court reviewed.

Appeal by defendant from judgment of the Senior Judge of the County Court of the county of York, at the trial, awarding plaintiffs, real estate agents, \$525 commission.

The appeal to Divisional Court was heard by HON. SIR GLENHOLME FALCONBRIDGE, C.J.K.B., HON. MR. JUSTICE BRITTON, and HON. MR. JUSTICE RIDDELL.

J. E. Jones, for the defendant.

R. Honeyford, contra.

HON. MR. JUSTICE RIDDELL:—That the plaintiffs were authorized to sell is admitted; that they obtained a purchaser seems not to be disputed—and the only question is whether their authority had lapsed before they proffered the purchaser to defendant.