

FALCONBRIDGE, C.J.

OCTOBER 7TH, 1902.

TRIAL.

WALKERVILLE MATCH CO v. SCOTTISH UNION
AND NATIONAL INS. CO.*Insurance—Fire—Contract—Authority of Agent.*

Action to recover \$3,083.45 under a fire insurance contract in respect of plaintiffs' factory at Walkerville, and contents. The defence was that the defendants had not issued a policy, and that they were not bound by a receipt issued in the name of one Davis, who had been an agent, but had been superseded.

A. H. Clarke, K.C., for plaintiffs.

O. E. Fleming, Windsor, for defendants.

FALCONBRIDGE, C.J.:—The material facts were not in dispute; the question was as to the proper inference from the facts. Davis said he ceased to be agent of the company in February, 1901. The special agent of the company, Rogers, confirmed this. The receipt in question was issued by one Mezger, signed by him in Davis's name, on the 25th April, 1901. The insurance was not entered in the register, the money for the premium did not reach any one who could be called an agent of the company till after the fire, and it did not appear that anything was known about the risk at the defendants' head office at Hartford till after the loss. Under these circumstances, the plaintiffs cannot recover. The doctrine laid down in cases like *Trueman v. Loder*, 11 A. & E. 589, has not been extended to an insurance contract. *Summers v. Commercial Union Assee. Co.*, 6 S. C. R. 19, seems to be against plaintiffs' contention.

Action dismissed without costs.

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DIVISIONAL COURT.

OTTAWA GAS CO. v. CITY OF OTTAWA.

Costs—Right of Party to Costs against Opposite Party—No Liability to Solicitor—Corporation Solicitor Paid by Salary—Change in By-law of Corporation.

Appeal by plaintiffs from order of STREET, J., in Chambers, reversing decision of local Master at Ottawa that de-