

MULOCK, C.J. Ex., in a written judgment, said that the action was brought by the administrators of the estate of Ellen Broderick, a deceased intestate, on behalf of the next of kin, for an account of all moneys of the deceased in the hands of the defendant.

At the trial it appeared that the defendant had received from the deceased, who was her aunt, two sums of money—\$1,357.30 in October, 1910, and \$2,538.62 in January, 1911—and it was considered by the trial Judge that the defendant was accountable to the plaintiffs for these two sums and any other moneys of the deceased which came to her hands.

The trial Judge rightly decided that the two sums mentioned did not become the property of the defendant; and the question now to be determined was, whether the defendant was entitled to remuneration for services rendered to the deceased by the defendant and her sister, Mrs. Slanker.

The defendant had brought the deceased from New York to Toronto in December, 1908, and kept her there for 11 months, when she went to live with the defendant's sister, also in Toronto, at whose house the deceased continued to live until her death in 1911. The deceased had an incurable malady, from which she died. The defendant attended upon her both in her own home and in her sister's. No arrangement was made for the deceased paying the defendant for her services. The defendant boarded and maintained the deceased and disbursed moneys out of her own pocket on the deceased's account. The two sums mentioned comprised the whole of the deceased's money; and there was evidence that she intended the defendant to have it. After the death of her aunt, the defendant paid Mrs. Slanker \$1,000, being at the rate of \$10 a week for 100 weeks' board of the deceased.

The deceased having been nearly related to the defendant, the onus was on the defendant to shew an agreement, express or implied, that she was to be remunerated for her services. The question was one of fact. If the circumstances made it manifest that both parties understood that the defendant was to be compensated for her services, she was entitled to recover their value: *Walker v. Boughner* (1889), 18 O.R. 448.

The undisputed facts shewed that both parties expected that the defendant would be properly remunerated; and she was entitled to payment for the services of herself and her sister in the maintenance and care of the deceased and to payment of all reasonable expenses incurred in providing her with medical and other attendance, medicines, and medical supplies, and also funeral expenses.

The defendant had, in her statement of defence, given particulars of her claim, which amounted to \$2,980.03. The claim seemed