

in the case where it is the duty of a tenant to repair, it has been held that in case the repairing would be so large as to be out of proportion to the tenant's interest in the premises (as it would be in this case), he would not be justified in repairing and treating the costs of such repairs as damages: *Cole v. Buckle*, 18 U.C.R. 286. Nor is he, it would seem, in such case bound to make repairs under the penalty of a denial of a recovery for injuries which would have been obviated thereby: 18 Am. & Eng. Encyc., 2nd ed., 235.

The fact that the plaintiff continued to occupy the premises after she had given notice and while they were unsanitary, was not unreasonable under the circumstances, from the fact that she was in constant expectancy of the repairs being made, and repairs were in fact made some weeks prior to her illness, but so negligently done that the premises still continued in an unsanitary condition. I do not think such continuance, under the circumstances, constituted contributory negligence upon her part. She was seriously ill for some weeks, was put to a considerable expense and suffered great pain and was otherwise put to loss and damages in connection with her business. I assess the damages at \$550 with full costs of the action.

MIDDLETON, J., IN CHAMBERS.

DECEMBER 5TH, 1912.

RE CHISHOLM AND CITY OF BERLIN.

Assessment—Salary of County Judge—Appeal from Court of Revision to County Judge—Prohibition—Disqualification by Interest—Jurisdiction of Judge in Chambers—10 Edw. VII. ch. 26, sec. 16—Appointment under the Act.

Motion by the City of Berlin for an order prohibiting the Judge of the County of Waterloo, or any Deputy or Acting Judge thereof, from hearing or disposing of an appeal of His Honour Judge Chisholm from the Court of Revision of the City of Berlin with respect to an assessment of his judicial salary.

W. Davidson, K.C., for the City of Berlin.

R. McKay, K.C., for Chisholm.

MIDDLETON, J.:—His Honour Judge Chisholm, being of opinion that his salary is not subject to municipal assessment,