

AMANDA BENSON .....APPLICANT;

AND

EDWARD GORDON HARRISON .....RESPONDENT.

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 \*Jun. 4  
 \*Jun. 10  
 —

*Motion for leave to appeal in forma pauperis.*

Appeal—Forma pauperis—Standard of means required under rule 142 of the Supreme Court of Canada.

In determining whether a person, on an application for leave to appeal to this Court in forma pauperis, is not worth \$500 as required by rule 142 of the Supreme Court, the matter should be approached, not as an inquiry whether the person has actually \$500 worth of property, but whether in the ordinary business judgment, it can be said that he is good for \$500. Since this is an ameliorating rule, in weighing the considerations too delicate weights should not be used.

*Kydd v. The Watch Committee of Liverpool*, 24 T.L.R. 257 referred to.

MOTION by the applicant before Mr. Justice Rand in Chambers for leave to appeal in forma pauperis.

*J. M. Coyne* for the motion.

*G. Perley Robertson* contra.

RAND J.:—This is an application for leave to appeal in forma pauperis. Rule 142 requires the application to be accompanied by an affidavit that the applicant is not worth \$500 “in the world” excepting his wearing apparel and his interest in the subject matter of the intended appeal. The applicant here was examined on her affidavit to that effect.

From the examination it appears that she is a widow with a son ten years old. She is in receipt of a war pension for herself of \$100 a month, and for the boy of \$40 a month

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\*PRESENT: Rand J. in Chambers.

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until he reaches 16 years of age. There are a few pieces of furniture, but nothing of any value. Living in Winnipeg, she rents four rooms at \$30 a month. In February she was able to borrow \$200 for clothes and to pay debts which she is now repaying in monthly instalments of \$16. She owes about \$200 in addition to that.

On these facts the question is whether she has shown that she is not worth \$500. In determining that question, the matter should, I think, be approached, not as an inquiry whether the person has actually \$500 worth of property, but whether, in the ordinary business judgment, it can be said that he is good for \$500. That was the view taken by Buckley L.J. in *Kydd v. The Watch Committee of Liverpool* (1).

Can this applicant, then, be said to be "good" for \$500? In answering that question, it cannot be overlooked that this is an ameliorating rule, and in weighing the considerations too delicate weights should not be used. In the best view I can give the matter, I think she has shown that she is not worth the amount fixed. Leave is therefore given.

The appeal will be allowed by serving notice of appeal within fifteen days from the taking out of this order.

*Leave granted.*