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COUSINS
v.
HARDING

ERNEST A. COUSINS AND OTHERS } APPELLANTS;
(DEFENDANTS)

AND

JACK HARDING AND OTHERS (PLAIN- } RESPONDENTS.
TIFFS)

ON APPEAL FROM THE COURT OF KING'S BENCH, APPEAL SIDE,
PROVINCE OF QUEBEC

Appeal—Jurisdiction—Wages—Claims of several employees against same employer cumulated in a single action—Each claim amounting to less than \$2,000—Claims mentioned in the original action, added together, exceeding \$2,000—Total amount of claims in the appeal before Supreme Court of Canada less than \$2,000—Fair Wages Act, Quebec 1 Geo. VI, c. 50.

When several plaintiffs cumulate in a single action their respective claims for wages, amounting each to less than \$2,000, against a same employer, as permitted by the provisions of a provincial statute and judgment is rendered accordingly, no appeal lies to this Court from that judgment, even if the total amount of all the claims exceeds \$2,000. *L'Autorité Limitée v. Ibbotson* (57 S.C.R. 340) followed.

MOTION on behalf of the respondents for an order quashing the appeal, which was brought from the judgment of the Court of King's Bench, appeal side, province of Quebec (1), which had itself quashed the appellants'

(1) (1940) Q.R. 68 K.B. 226.

*PRESENT:—Rinfret, Crocket, Davis, Kerwin and Hudson.

appeal to that Court from a judgment of the Superior Court maintaining the respondents' action.

Fourteen plaintiffs, formerly in the employ of Kraussman's Lorraine Café Limited (insolvent at the time of the action), sued the appellants as directors of that company for unpaid wages. The plaintiffs joined their claims in a single action, as permitted by section 22 of the *Fair Wages Act* of Quebec. The total amount of the claims was then exceeding \$2,000; but, by the conclusions of their declaration, the plaintiffs were asking not for the total amount to be divided between them according to their respective claims, but for a separate award to each of them of the specific sum due to each. The judgment in the Superior Court was rendered accordingly. Eleven of the claims awarded were below \$200.

The appellants appealed, but their appeal was dismissed for want of jurisdiction by the appellate court, except as to the three claims exceeding \$200.

The appellants were now appealing from the judgment quashing their appeal against the eleven other respondents, none of whose claims was for a sum above \$200 and the total amount of their claims being only \$1,783.93.

The respondents moved to quash.

Paul L. Belcourt for motion.

Frank B. Chauvin contra.

The judgment of the Court was delivered by

RINFRET, J. (oral): We do not require to hear you in reply, Mr. Belcourt.

We think the motion ought to be granted and the appeal quashed.

There is really no possible distinction between this case and the case of *L'Autorité Limitée v. Ibbotson* (1), where, curiously enough, the respondents were the same number as in the present case.

Under s. 22 of the *Fair Wages Act* the claims of several employees against the same employer may be cumulated in a single action. But the statute is only permissive,

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not compulsory, and the mere fact that several plaintiffs have joined their claims in a single action does not affect our jurisdiction. So far as this Court is concerned, each claim by itself must be considered as separate for purposes of jurisdiction.

Moreover, even the aggregate amount involved in this appeal does not reach the sum of \$2,000. For that additional reason also the motion must be granted.

The appeal will be quashed with costs.

*Motion granted with costs and
appeal quashed.*

Solicitors for the appellants: *Chauvin, Walker, Stewart & Martineau.*

Solicitor for the respondents: *Georges Antoine Fusey.*
