

Supreme Court of Canada
St. Lawrence Flour Mills Co. v Stewart, (1917) 55 S.C.R. 624
Date: 1917-11-28

St. Lawrence Flour Mills Company v. Stewart.

1917: October 26; 1917: November 28.

Present: Sir Charles Fitzpatrick C.J. and Davies, Idington, Duff and Anglin JJ.

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

Master and servant—Liability—Saw-guard—Contributory negligence.

APPEAL from the judgment of the Court of King's Bench, Appeal Side¹, reversing the judgment of Greenshields J. at the trial and maintaining the action of the plaintiff-respondent with costs.

The respondent, a millwright, was employed as such by the appellant in a large flour mill. While he was operating a circular saw, his left hand was suddenly turned into the teeth of the saw. The respondent took an action in damages for \$10,000.00, alleging that the accident occurred because there was no guard over the saw, when the appellant should have had one installed. The appellant denied any liability for the reasons that the respondent had, for a long time before the accident, control of the saw, that he was himself aware of the necessity of a guard and that he had never complained or asked that one should be installed.

The trial court dismissed the action on the ground that the respondent was alone responsible for the accident. But this judgment was reversed by the Court of Appeal who held that the appellant was also, though in a less degree, liable and, on account of contributory negligence, assessed damages at \$2,000.00.

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The defendant appealed to the Supreme Court of Canada, which, after having heard counsel on behalf of both parties, reserved judgment and subsequently dismissed the appeal, Davies J. dissenting.

Appeal dismissed with costs.

J. E. Martin K.C. and John Hackett for the appellant.

Vipond K.C. for the respondent.

¹ Q.R. 26 K.B. 476.