

BABASHOK v. BEIRMAN

Workmen's Compensation Act—Application—Compensation—R. S., 1909, Art. 7321.

A workman who tries to work an unfamiliar machine without authorization and against the will and the warnings of his employer is not entitled to any compensation under the Workmen's Compensation Act.

Action under the Workmen's Compensation Act. The plaintiff sues to recover an annuity of \$234 for injuries to his right hand. He says, amongst other things, that though nominally engaged as a fireman he was ordered by his employer to do some work in connection with a machinery in which he had no experience, and in so doing his right hand was so badly mangled that it will not recover, and his earning capacity has been reduced permanently by at least 50 p. c.

The defendant pleaded, in substance, that on October 26, 1914, when the factory was closed, the defendant gave plaintiff the key of his factory with instructions to sweep up and clean up the factory and to heat the steam a little and to wait there for him. The plaintiff was soon after seen standing in front of the machine, which he had started in motion, endeavouring to put in it a piece of stray rag, experimenting the machine on his own behalf. If the

Mr. Justice Guerin.—Superior Court.—No. 465.—Montreal, October 8, 1915.—H. A. Hutchins, K. C., attorney for plaintiff.—I. Popliger, attorney for defendant.