

FALCONBRIDGE, C.J.K.B.:—The plaintiff was in the employment of the defendant company in its engine-house in the village of Chapleau. He was what is known as "hostler's helper," and part of his duty was to open and close certain double doors to permit the locomotives to get in and out of the said engine-house, whenever so requested by those in charge. The hostler was a man named Peter Fedoreczuk, a compatriot (Ruthenian) of the plaintiff's, coming from the same town, being in fact his second cousin.

The plaintiff charges that on the 14th February, 1914, he received a signal for the opening of the doors, and that the duty of the hostler who was temporarily in charge of the locomotive was to await the answering signal from the plaintiff before moving the engine. The plaintiff alleges that he had opened one of the doors, but could not quickly open the other half, because it was loaded with ice at the bottom thereof. He says that the hostler brought out the engine without receiving the signal from the plaintiff, and that the engine struck the partly open door, inflicting severe injuries upon the plaintiff.

The plaintiff did not bring his action within the six months from the occurring of the accident, and therefore was not within the Workmen's Compensation for Injuries Act.

His claim of negligence at common law was, that the defendant company did not employ an efficient and competent man for the duties which the hostler had to perform. Something was said also as to the ice, but that point has been ignored by the jury in their answers, and need not be further considered. The jury answered the questions as follows:—

1. Were the injuries received by the plaintiff caused by any negligence of the defendants? A. Yes.

2. If so, wherein does such negligence consist? A. In having an inefficient hostler that day.

3. Was the hostler, Peter Fedoreczuk, an efficient and competent man for the duties which he had to perform? A. We think he was careless.

4. If you find that he was not an efficient and competent man, did the defendants, the Canadian Pacific Railway Company, know, or ought they to have known, that he was not competent or efficient? A. Yes.

5. Do you find that the plaintiff gave the signal to the hostler to bring out the engine, or did the hostler bring out the engine without receiving any such signal? A. Yes. The hostler brought it out without receiving the signal.