

urged that so much of it as consisted of bonus should be disallowed, on the theory that none of the bonus was earned unless the plaintiff served for the full 12 months or till such time as the defendants dispensed with his services. If that was the intention, it was not expressed in the writing signed by the parties—it was only the payment that was postponed until the termination of the employment.

*Appeal dismissed with costs.*

FIRST DIVISIONAL COURT.

OCTOBER 10TH, 1919.

PATTERSON v. R. BIGLEY MANUFACTURING CO.

*Contract—Sale of Goods—Shipment after Time Fixed—Refusal to Accept—Justification—Findings of Jury—Reasonable Time—Appeal—Costs.*

Appeal by the defendants from the judgment of the County Court of the County of Welland in favour of the plaintiff, upon the findings of a jury, for the recovery of \$194.40 and costs, in an action for the price of a car-load of sand alleged to have been ordered by the defendants from the plaintiff and shipped on the 9th December, 1918, which the defendants refused to accept; and there was also a claim for demurrage and unloading charges.

The appeal was heard by MEREDITH, C.J.O., MACLAREN, MAGEE, and HODGINS, J.J.A.

William Davidson, K.C., for the appellants.

W. M. German, K.C., for the plaintiff, respondent.

MEREDITH, C.J.O., reading the judgment of the Court, said that on the 17th June, 1918, the defendants gave the plaintiff a written order for two car-loads of moulding sand, one to be shipped on the 1st August following and the other on the following 1st October. There was no written acceptance by the plaintiff of the order, but on the 21st August, 1918, the plaintiff shipped to the defendants one car of the sand, and it was accepted and paid for. The second car-load was not shipped on the 1st October, and nothing appeared to have been done about it until December, except that on the 27th September the defendants wrote a letter to the plaintiff cancelling the order for it. The second car-load was shipped to the defendants on the 9th December. The defendants refused to accept it, saying that the order for it had been cancelled, that it had not been shipped in due time, and that the sand was not No. 2 moulding sand.