

GARROW, J.A.:—In my opinion, no sufficient reason appears for reversing the judgment of Anglin, J.

The undisputed circumstances appear to be as follows:—

The defendant's dismissal took place in the month of March, 1900. He had at that time been the plaintiffs' manager at Ottawa for over two years, on a yearly salary. He was the son of the founder of the plaintiffs' business, and a brother of the president and general manager, Mr. D. J. McCarthy. He was cross-examined before the Master as to an alleged shortage in his account, which he denied, and there is no evidence that he was guilty of the suggested or of any other misconduct such as would have justified dismissal without notice.

C. J. McCarthy, the plaintiffs' secretary-treasurer at the time and for some years afterwards, said in his evidence that he understood the reason why the Ottawa agency was closed, was because it had been unsuccessful.

The correspondence put in before the Master shews that the defendant, after the dismissal, maintained friendly relations with his brother, the plaintiffs' president, and that he made no complaint in it concerning the dismissal, the only reference to the dismissal being that contained in the defendant's letter of the 10th July, 1900, in which the defendant says: "I would *once more* call your attention to my arrangement with Mr. Murphy respecting payment to me in lieu of salary" etc.

The correspondence also shews that the defendant, who was a married man with a family depending on him, was financially in very poor circumstances. In the letter from which I have just quoted he says: "Our rent is *once more* past due, and we are *once more* in that beautiful state of uncertainty when we do not know what will happen next," etc.

The plaintiffs carried on the business of brewers at the town of Prescott. Mr. Murphy's instructions were in writing, in the form of a resolution as follows: "It is hereby resolved that the following powers are hereby delegated to A. A. Murphy, accountant, of the city of Montreal: first to deliver to W. C. McCarthy a letter signed by the manager of the company asking for the immediate resignation of W. C. McCarthy as agent of the said company; second, for the said A. A. Murphy to, as soon as possible, take possession of the office of the agency and business of the said company in the city of Ottawa, and everything relating thereto, and to hold same on behalf of the said company and to transact all business in connection therewith, with the widest powers possible, and subject only to the further orders of the manager of the said company."