

theft. Now all these facts being known to defendant afforded reasonable and probable cause for believing the theft to have been committed, and justified the arrest. The contention that in spite of the foregoing facts that defendant did not believe that the plaintiff intended to steal the stove, because he expected him to come back to work the next day and wanted him to come. I cannot accept. Defendant says this occurrence was in the middle of a busy week, he required a driver, and had plaintiff returned and made restitution by paying for the stove, he would have continued to employ him and would not have made the arrest. From his evidence, it would appear he would have allowed him to finish his week, and though not questioned as to what his subsequent conduct have been as to retaining him in his services, I would conclude that when his week was out he would have dispensed with his services. Even had he intended to retain him indefinitely in his employ, it would not imply a belief on defendant's part in plaintiff's innocence of the crime. There are people who retain employees whom they have caught stealing, if they are useful, and it is admitted plaintiff was useful, especially if the theft is of an object of small value. There are some people who employ those who have served a term in the penitentiary for theft. He might have retained him and kept a more careful watch upon him. From his system of having someone accompany his driver to the storage, where four or five thousand dollars worth of goods were stored, there would be little risk of theft. The risk would be limited to C. O. D. deliveries and a theft of these would soon be ascertained. Besides those once detected are not disposed to repeat the offence, knowing they are exposed to suspicion.