

J. H. Tennant, for defendant.

D. L. McCarthy, for plaintiffs.

THE MASTER.—While there can be no doubt as to the residence of defendant being in Toronto during the period after the issue of the writ, and that he could have been readily served at any time after its issue, and while the Court regards with jealousy applications for extending the time for service, especially where, but for the existence of the writ, the ordinary period of limitation would have expired, yet, the plaintiffs not having withheld any evidence from the local Master in applying for the ex parte order, and having explained their efforts to ascertain the whereabouts of defendant to his satisfaction, his order should not be set aside. *Howland v. Dominion Bank*, 15 P. R. 56, and *Mair v. Cameron*, 18 P. R. 484, distinguished. Defendant having had good reason to make the application, costs to be costs in the cause.

MARCH 30TH, 1903.

DIVISIONAL COURT.

SMALL v. AMERICAN FEDERATION OF MUSICIANS.

*Contempt of Court—Motion to Stay Appeal by Defendants in Contempt—Disobedience to Injunction—Unincorporated Association—Body Improperly Served with Process—Costs.*

Motion by plaintiff to stay defendants' appeal from order of MEREDITH, J. (ante 99) affirming order of Master in Chambers (ante 26) dismissing a motion by defendants to set aside an order for service of the writ of summons upon them by serving the defendant D. A. Cary substitutionally. The motion to stay the appeal was made on the ground that defendants were in contempt for having disobeyed an injunction granted on 11th January, 1903 (ante 33) restraining defendants from inducing, persuading, or ordering one Cresswell to refuse to continue in plaintiff's employment and to break his contract with plaintiff.

C. A. Moss, for plaintiff.

J. G. O'Donoghue, for defendants.

The judgment of the Court (FALCONBRIDGE, C.J., STREET, J., BRITTON, J.) was delivered by

STREET, J.—Since the argument of this motion it has been held by a Divisional Court (*Metallic Roofing Co. of Canada v. Local Union No. 3*, ante 183) that an association similar to defendants is not a body capable of being sued or