

and demanded payment from him of the amount of the said assessment, and, in default of payment by the plaintiff, duly required the amount of the said assessment from the defendant; and for an order extending the time for service of the third party notice upon the said Workmen's Compensation Board as third parties in this action, and for stay of judgment and execution in this action until the issues between the defendants and the said Workmen's Compensation Board as third parties shall have been determined.

The motion was heard in the Weekly Court at Toronto.
Irving S. Fairty, for the defendants.
F. J. Hughes, for the plaintiff.

CLUTE, J., in a written judgment, said that judgment was given in this case on the 24th November last, for the plaintiff for \$2,230.20, with a stay for one month to enable the parties, with the sanction of the Board, if that could be obtained, to ascertain and adjust the differences between them and the Board: see ante 212, 213.

No adjustment was made; and this motion was now launched on the part of the defendants to open the case and for leave to extend the time for giving notice to the Workmen's Compensation Board as third parties.

As was pointed out in the judgment, the defendants were invited by the learned Judge to produce the evidence now sought to be given, but without effect. In support of the present application, certain copies from the books of the Board were now produced, but the evidence as therein indicated was still incomplete to shew that the requirements of the Act by the Board had been complied with so as to entitle them to recover from the plaintiff the amount said to be due to the Board or to justify the defendants in paying over that amount to the Board as indebtedness of the defendants to the plaintiff.

Nevertheless, it was desirable that the facts of the case should be obtained, if they could be obtained, to shew that a valid assessment was made by the Board upon the plaintiff, and that, in default, the defendants properly paid over the amount due the plaintiff, to the Board. To that extent the motion should be granted; the defendants to pay to the plaintiff the costs of this motion and the costs incident to the taking of such further evidence and further trial of the action, in any event of the cause. Both parties to expedite a further hearing of the case.

With respect to that portion of the motion to extend the time