

An order may go as in that case if the defendant really wishes to have the exact amount due on the guarantee ascertained and formally proved either on a reference or at a trial. If the latter course is adopted the defendant should plead in four days after delivery of statement of claim and the case should be set down on the peremptory list after being on the general list a week.

Costs as usual will be in the cause.

MASTER IN CHAMBERS.

SEPTEMBER 23RD, 1912.

FARMERS' BANK v. SECURITY LIFE ASSCE. CO.

4 O. W. N.

*Process—Writ of Summons—Service out of Jurisdiction—Motion to Set Aside—Conditional Appearance—Cause of Action.*

Motion by defendants to set aside an order permitting service of a writ of summons herein on them in Montreal, on ground that payment of the guarantee on which action was brought was to be made in Montreal and there only.

MASTER-IN-CHAMBERS permitted defendants to enter a conditional appearance, leaving plaintiff to prove a cause of action within the province at the trial at his own peril.

*Farmers Bank v. Heath*, 21 O. W. R. 283, 403; 22 O. W. R. 614; 3 O. W. N. 682-805-879, followed.

Costs in cause.

This was an action on a guarantee given by defendants who are all resident at Montreal, where the document in question was given on 29th December, 1909. The usual order for service was made under Con. Rule 162 (2). The defendants moved to set this aside.

H. E. Rose, K.C., for motion.

M. Lockhart Gordon, contra.

CARTWRIGHT, K.C., MASTER:—The guarantee was admittedly signed at Montreal and it was argued that *prima facie* this would not import payment outside the province of Quebec.

It was further contended that in any case even if the guarantors had to seek out their creditor, that this would be done in Montreal itself, because sec. 70 of the Banking Act,