

I am of opinion that the giving the defendant employment, the acceptance by the defendant of employment, and his continuance therein, shew sufficient consideration for the contract.

The restraint for three years is not invalid; nor is the area, viz., within Toronto or in territory adjacent for five miles, unreasonable. The contract is not invalid by reason of the time or territorial restriction.

The contract, for the alleged breach of which this action is brought, is that the defendant will not engage in the business of selling teas or coffees in Toronto or within five miles, for the period of 3 years from the termination of his employment as mentioned, either directly or indirectly.

The termination of the defendant's employment with the plaintiff took place on the 27th December, 1913. There was no complaint of the defendant's dismissal. He accepted it, and does not now complain. The defendant seems not to have considered himself bound. He announced his intention of leaving the plaintiff's employ. He, as I think may be inferred, suggested that his brother-in-law should go into the tea and coffee business in Toronto; and the defendant told his brother-in-law where one of the plaintiff's waggons could be purchased, and it was purchased. The defendant did solicit orders from some of the plaintiff's customers. The plaintiff does not claim damages, but asks for the continuance of an interim injunction which was granted. The defendant, having broken his agreement, must be enjoined from further acts in breach of the agreement.

The judgment will be for the plaintiff for an order restraining the defendant from engaging in the business of selling teas or coffees in Toronto, or within a radius of five miles from Toronto, for the period of three years from the 27th December, 1913, as above-mentioned, either directly or indirectly.

An interesting case, in regard to unreasonable restraint of trade, is the case of *Mills v. Dunham*, [1891] 1 Ch. 576. *Wicher v. Darling*, 9 O.R. 311, is in point in the plaintiff's favour.

I sympathise with the defendant in his being unable, with this injunction upon him, to find work for the support of his family, but the agreement, the contents of which the defendant knew or ought to have known, must be obeyed.

The judgment will be with costs, if the plaintiff exacts costs. The defendant's claim for damages will be dismissed.