

BETWEEN:

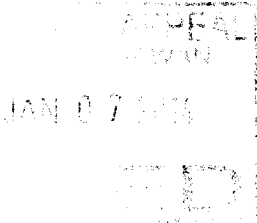
THOMAS NEIL LOVE

APPELLANT

- and -

LORI MARIE LOVE

RESPONDENT



W. Timothy Stodalka for the Appellant
Paul Wagner for the Respondent

**Taxation before Melanie A. Baldwin
Registrar, Court of Appeal
January 7, 2014**

The appeal was allowed with costs to the Appellant [see Judgment of the Court dated March 19, 2013]. The Appellant took out an Appointment for Taxation and served that Appointment for Taxation, a proposed Bill of Costs and an Affidavit of Disbursements on the Respondent. The proposed Bill of Costs was taxed by me in the presence of Mr. Stodalka and Mr. Wagner on January 7, 2014 and this Fiat represents my decision in relation thereto.

Authority for Taxation

The Court’s decision found that the Appellant was entitled to “his costs in this Court.” Rule 54 of *The Court of Appeal Rules* provides for taxation of costs and indicates that Part Forty-Six of *The Queen’s Bench Rules* applies, with any necessary modification, to a taxation of costs under Rule 54.

The Queen’s Bench Rules (the “old rules”) referred to in *The Court of Appeal Rules* have been replaced by the *Queen’s Bench Rules* (the “new rules”) which came into force on July 1, 2013. The provisions of the new rules relating to costs are now in Part 11 (not Part Forty-Six). The content of the specific provisions of the rules relevant to this taxation has not changed. As such, I do not need to determine whether the old rules or the new rules apply to this taxation and I do not do so.

Proposed Bill of Costs

The proposed Bill of Costs lists the following fees under Column 3 of the Court of Appeal Tariff of Costs:

2	Notice of Appeal	\$ 500
6	Agreement as to Contents of Appeal Book	\$ 300

7	Preparation of Appeal Book	\$ 750
8	Preparation of Factum	\$3500
9	All Other Preparation for Hearing	\$1000
10	Appearance to Present Argument	\$ 500
11	Preparing Formal Judgment	\$ 300
12	Correspondence	\$ 200
13	Preparation of Bill of Costs	\$ 200
14	Taxation of Bill of Costs	\$ 100

The fees claimed total \$7350.

The proposed Bill of Costs also claims disbursements amounting to \$453.20 (incorrectly set out as \$452 in the proposed Bill of Costs) composed of \$125 for the Court's fee for filing the Notice of Appeal, \$100 for the Court's fee for filing the Appeal Book, \$207.20 for photocopying the factum and appeal book and \$21 for service fees. GST of \$378.91 is claimed (on fees and disbursements other than Court fees) and PST of \$367.50 is claimed (on fees).

Positions of the Parties

At the taxation hearing, the Appellant, through its counsel, agreed to withdraw its claim under item 6 (Agreement as to Contents of Appeal Book). While counsel for the Appellant did prepare an Agreement as to Contents of Appeal Book which no doubt was appreciated by counsel for the Respondent, the Agreement as to Contents of Appeal Book was not necessary as this was an expedited appeal under Rule 43 of *The Court of Appeal Rules*.

Counsel for the Appellant noted a typographical error under item 12 (Correspondence). The amount claimed there should have been \$300 rather than \$200. Column 3 of the Tariff provides for \$300 under this item.

Finally, counsel for the Appellant confirmed that the Appellant also wishes to claim disbursements of \$20 for the Court's fee for issuing the Formal Judgment and \$20 for the Court's fee for issuing the Appointment for Taxation. The Court's records confirm that these amounts were paid.

Counsel for the Respondent was not able to obtain instructions from the Respondent so is not in a position to consent to the proposed bill of costs.

Decision

The fees claimed on the proposed Bill of Costs (as amended at the taxation hearing) are all appropriately claimed by the Appellant on this appeal under Column 3 of the Court of Appeal Tariff of Costs. The Court's file confirms that the Appellant paid the Court fees identified in the proposed Bill of Costs (as amended at the taxation hearing). The other disbursements seem

