



Reginald Wilchuck

APPELLANT

- and -

Westfield Twins Condominium Corporation

RESPONDENT

No one appearing for the Appellant
 Randall Sandbeck Q.C. for the Respondent

**Taxation before Melanie Baldwin, Q.C.
 Registrar, Court of Appeal for Saskatchewan
 March 26, 2019**

Background

[1] Mr. Wilchuck's appeal was filed on May 2, 2018. It was heard by the Court on December 5, 2018 and, on January 3, 2019, the Court dismissed his appeal "with costs to the respondent." The respondent has taken out an appointment for taxation of costs returnable before me on March 26, 2019. The appellant has been served with the notice of appointment and is aware of the return date.

[2] On March 22, 2019, the appellant delivered a letter to the Court's registry office taking issue with being required to pay costs on the basis that he was granted a fee waiver in the Court and indicating that he did not intend to take part in the taxation hearing. I responded to the appellant by email, providing some information about *The Fee Waiver Act*, offering him the opportunity to seek another return date and/or appear by telephone on the return date and confirming that, if he chose not to participate in the taxation hearing, I would proceed to tax the costs in his absence.

[3] The appellant did not respond to my email of March 22, 2019 and did not appear at the taxation hearing on March 26, 2019. I therefore heard submissions from the respondent and proceeded to tax the respondent's costs. This fiat is my decision on the taxation.

Proposed Bill of Costs

[4] The respondent filed a proposed bill of costs. The proposed bill of costs lists the following fees under column 2 of the Court of Appeal Tariff of Costs:

8	Preparation of factum	\$2000
9	All other preparation for hearing	\$ 750

10	Appearance to present argument on appeal before Court of Appeal	\$ 400
11	Preparing formal judgment	\$ 200
12	Correspondence	\$ 200
13	Preparation of Bill of Costs	\$ 150
14	Taxation of Bill of Costs	\$ 75

The fees claimed total \$3775. The respondent also claims GST (\$188.75) and PST (\$226.50) on fees.

[5] The proposed bill of costs also claims disbursements of \$130 composed of \$20 to issue the judgment, \$10 to issue the notice of appointment for taxation and \$100 for the assessment of costs.

Issues

[6] The appellant takes issue with being required to pay costs on the basis that he was granted a fee waiver in the Court. As the appellant chose not to participate in the taxation hearing, it is not clear whether he objects to any of the specific fee items or disbursements claimed in the bill of costs.

Argument

[7] The respondent relies on the bill of costs.

Analysis

[8] The appellant applied for and was granted a fee waiver in the Court. Section 7 of *The Fee Waiver Act* provides that the Court maintains discretion to make an order for costs against a holder of a fee waiver certificate. The Court exercised that discretion when it ordered "costs to the respondent." This relief was clearly sought by the respondent in its factum.

[9] Once costs are awarded by the Court and an appointment for taxation is taken out, I am charged with assessing the amount of the costs in my role as the Court's taxation officer. I have no jurisdiction to interfere with the Court's award of costs.

[10] The fee items claimed by the respondent are all reasonable and warranted.

[11] As for disbursements, the Court file discloses that the respondent has paid fees to the Court for issuing the formal judgment (\$20) and for issuing the notice of appointment for taxation (\$20). While the bill of costs claims only \$10 for the latter fee, I am satisfied from my review of the Court file that the respondent is entitled to \$20 for issuing the notice of appointment for taxation and I will allow that amount.

[12] The bill of costs lists a disbursement for "assessment of costs" in the amount of \$100. It is not clear to me what this claim is for – there is no corresponding cost identified on the Court file. I will therefore remove this amount from the bill of costs.

Decision

[13] The fees are taxed and allowed as claimed by the respondent in the bill of costs. The total fees allowed are \$3775. The respondent is entitled to GST on fees of \$188.75 and PST on fees of \$226.50.

[14] The disbursements are taxed and allowed at \$40.

[15] The proposed bill of costs is therefore taxed and allowed at **\$4230.25** (\$3775 for fees + \$188.75 for GST on fees + \$226.50 for PST on fees + \$40 for disbursements). The respondent may wish, for enforcement purposes, to prepare and file a certificate of taxation of costs in Form 11d in this amount for issuance.

DATED at Regina, Saskatchewan, this 26th day of March, 2019.



REGISTRAR – COURT OF APPEAL