

Nestor Laverne Mryglod

APPELLANT



- and -

Jacqueline Kelln

RESPONDENT

Nestor Mryglod the Appellant  
David Flett for the Respondent

**Taxation before Melanie Baldwin, QC  
Registrar, Court of Appeal for Saskatchewan  
July 9, 2020**

**Background**

[1] The appellant appealed an order from the Court of Queen's Bench finding him in contempt of court for failing to comply with a court order and ordering him to comply with the order by a specified date or face time in prison. The notice of appeal was filed on January 20, 2020. After the notice of appeal was filed, the respondent applied to the Court for an order quashing and/or striking the notice of appeal. That application was dismissed by the Court on March 13, 2020. In its oral decision dismissing the application to quash/strike, the Court concluded:

The costs of this application and of the preparation of the appeal book will be left to the panel that hears the appeal.

[2] The appeal was heard by the Court on May 8, 2020. On May 13, 2020 the Court dismissed the appeal, adding the following about costs:

[18] The panel that dealt with Ms. Kelln's unsuccessful March 13, 2020, application to strike Mr. Mryglod's appeal ordered her to prepare the appeal book and left the question of costs in relation to both the appeal book and the application itself to be determined by the panel that heard the appeal. Ordinarily, under Column 2, preparation of the appeal book would warrant an award of costs in the amount of \$500. However, on the other side of the balance lies the fact that Mr. Mryglod, albeit self-represented, was the party who prevailed in the application to strike. All things taken into account, I am inclined to consider this a wash.

[19] In the end, I conclude that Ms. Kelln is entitled to costs in the usual way.

[3] The respondent took out an appointment for taxation returnable before me on July 9, 2020. The appointment was served and filed together with a proposed bill of costs. The taxation hearing took place on July 9, 2020 with the appellant and counsel for the respondent both appearing by telephone. This fiat is my decision on the taxation.

### **Proposed Bill of Costs**

[4] The proposed bill of costs filed by the respondent lists the following fees under column 2 of the Court of Appeal Tariff of Costs (the "Tariff"):

3	Fee to respondent on receipt of Notice of Appeal	\$ 125
7	Preparation of Appeal Book	\$ 500
8	Preparation of Factum	\$ 2000
9	All Other Preparation for Hearing	\$ 750
10	Appearing to Present Argument on Appeal before Court of Appeal	\$ 400
12	Correspondence	\$ 200
13	Preparation of Bill of Costs	\$ 150

The fees claimed total \$4125.

[5] At the taxation hearing, the respondent added a claim for \$75 for the taxation hearing under fee item 14 of column 2 of the Tariff.

### **Positions of the Parties**

[6] The appellant takes issue with the amount claimed under fee item 7 of the Tariff in light of the comments made by the Court in paragraph [18] of its decision of May 13, 2020 (set out above). Counsel for the respondent concedes on this issue and withdraws the respondent's claim for this fee item amount.

[7] The appellant feels that the amount claimed under fee item 8 is high.

[8] The appellant has no other specific objections to the fee items claimed but disagrees with the Court's decision overall.

### **Decision**

[9] The amount claimed by the respondent under fee item 7 is properly withdrawn and will be taxed off.

[10] Column 2 of the Tariff is the appropriate column as the appeal involved non-monetary relief. The Court confirmed that column 2 was the appropriate column in paragraph [18] of its decision of May 13, 2020 (set out above).

[11] Each fee item in the Tariff represents a step in an appeal. When the Court awards the costs of an appeal, the party to whom the costs are awarded is entitled to claim the fee item amount set out in the appropriate column of the Tariff for each completed step of the appeal. I have reviewed the remaining fee item amounts claimed in the proposed bill of costs and have confirmed that the respondent is entitled to claim each of these fee item amounts, including the amount claimed under fee item 8.

[12] As for fee item 14, the respondent is entitled to \$75 per hour for the taxation hearing. As the taxation hearing was only a few minutes long and as the appellant had a valid point about fee item 7, I will prorate the claim under fee item 14 and will tax on the amount of \$20.

[13] The fees items to which the respondent is entitled are taxed and allowed as follows:

3	Fee to respondent on receipt of Notice of Appeal	\$ 125
8	Preparation of Factum	\$ 2000
9	All Other Preparation for Hearing	\$ 750
10	Appearing to Present Argument on Appeal before Court of Appeal	\$ 400
12	Correspondence	\$ 200
13	Preparation of Bill of Costs	\$ 150
14	Taxation of Bill of Costs	\$ 20

[14] The respondent's costs are therefore taxed and allowed at **\$3645**. 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 9th day of July, 2020.



---

REGISTRAR – COURT OF APPEAL