

CACV3623



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
September 9, 2020**

Background

[1] The appellant's appeal was filed on April 9, 2020. The respondent served and filed an application to quash the appeal returnable on July 7, 2020. The application to quash the appeal was heard by the Court on July 7, 2020 and, on July 14, 2020, the Court quashed the appeal "as frivolous and manifestly without merit." In its decision of July 14, 2020, the Court also ordered that the respondent "shall have its costs in the usual way." The respondent took out and served an appointment for taxation of costs returnable before me on September 9, 2020.

[2] On September 1, 2020, I emailed the appellant and counsel for the respondent confirming the date and time of the taxation hearing and asking each of them for a telephone number where I could reach them on the return date. On September 2, 2020, the appellant responded as follows:

This is respecting costs for this file and the September 9, 2020 hearing.
The order does not specify costs. It states "costs in the usual way". I am supposed to just guess what that means. Undefined it means nothing.

Accordingly, I do not consent to having anything charged or taxed against me.

[3] On September 3, 2020, I responded to the appellant, asking if he intended to appear at the taxation hearing and attempting to confirm his contact information. The appellant did not respond to my email of September 3, 2020. On September 9, 2020 at 10:00 a.m. I attempted to telephone the appellant at the telephone number he provided in his letter of September 2, 2020 and there was no answer. I therefore heard submissions from counsel for 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 1 of the Court of Appeal Tariff of Costs:

5(a)	Complex Motion - Opposed	\$1000
11	Preparing formal judgment or order	\$ 100
12	Correspondence	\$ 100
13	Preparation of Bill of Costs	\$ 100
14	Taxation of Bill of Costs	\$ 50

The fees claimed total \$1350. The respondent also claims GST (\$67.50) and PST (\$81) on fees.

[5] The proposed bill of costs also claims disbursements of \$85 composed of \$25 to file the application to quash the appeal, \$20 to issue the judgment, \$20 to issue the notice of appointment for taxation and \$20 to issue a certificate of taxation.

Issues

[6] The appellant takes issue with being required to pay costs on the basis that the Court's decision does not specify costs but, rather, awards costs to the respondent "in the usual way." 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 Court's indication that the respondent would have its costs "in the usual way" is perhaps difficult to comprehend for a self-represented litigant like the appellant for whom court and taxation practice is not "usual." I understand the phrase to mean that the respondent (the successful party) is entitled to have the appellant (the unsuccessful party) pay it the costs permitted under the Tariff as agreed to by the parties or as taxed where there is no agreement.

[9] Once costs are awarded by the Court and an appointment for taxation is taken out, I am charged with assessing the appropriate 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. The respondent has chosen to pursue costs under the lowest column of the Tariff. The disbursements claimed are all supported by the Court file.

Decision

[11] The fees are taxed and allowed as claimed by the respondent in the bill of costs. The total fees allowed are \$1350. The respondent is entitled to GST on fees of \$67.50 and PST on fees of \$81.

[12] The disbursements are taxed and allowed at \$85.

[13] The proposed bill of costs is therefore taxed and allowed at **\$1583.50** (\$1350 for fees + \$67.50 for GST on fees + \$81 for PST on fees + \$85 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 9th day of September, 2020.



REGISTRAR – COURT OF APPEAL