



ONTARIO SUPERIOR COURT OF JUSTICE
SMALL CLAIMS COURT

ORDER OF THE COURT

Claim No. SC-24-00000030-0000

B E T W E E N

JOSEPH ALLEN JOLICOUER and JOAN MARIE JOLICOUER

Plaintiffs

- and -

BETTY SCHEIBLER, also known as BETTY WESTOVER

Defendant

BEFORE: Jack Jamieson

HELD BY: ☐ In person ☐ Videoconference ☐ Teleconference ☒ In writing

EVENT TYPE: Cost Submissions and Determination after Trial

APPEARING:

Plaintiff(s): Present ☐

Representative: Present ☐

Defendant(s): Present ☐

Representative: Present ☐

ORDER OF THE COURT

On June 29, 2026, a hearing was held in the above matter and the following order was made:

I have reviewed the written submissions on costs from each party.

There are two matters on which costs are to be determined:

1. Cost of the motion and cross motion heard on July 24, 2025; and
2. Costs of the trial heard in November, 2025.

Costs of the Motions

As both counsel have noted, costs of a motion are capped at \$100 unless there are special circumstances. There are special circumstances in this case.

The Plaintiff's motion to strike portions of the Defence was appropriate due to the fact that extensive portions of the defense were an abuse of process as a purported re-litigation of prior judicial findings – a trial decision, an appeal decision and a decision on a motion - and it was necessary for the Plaintiff to prepare extracts from prior decisions and related those findings to the allegations in the Defense. Preparation was extensive given the nature of the allegations. However, while substantial portions of the Plaintiff's motion to strike were successful, the Plaintiff had sought to strike the entire defence and did not recognize that the Defendant was entitled to defend the claim on its merits, and particularly as to the quantum of occupation rent and damages. The Plaintiff's motion was therefore only partially successful.

The primary issue on the Defendant's cross motions was an attempt to strike out the Plaintiff's Claim based on an unfounded proposition derived from the earlier motion to set aside a default judgment. The Defendant was unsuccessful on this part of its motion to dismiss. The successful part of the Defendant's cross motion requiring payment of costs ordered in favour of the Defendant by Deputy Judge Richardt on a previous motion took a relatively insignificant amount of time. The Plaintiff was substantially successful in defending the Defendant's cross – motions.

The facts related in both parties costs submissions concerning the actual payment of the costs order by Deputy Judge Richardt are irrelevant to the determination of the costs of the motion.

I order the Defendant to pay costs to the Plaintiff in respect of the motion and cross-motion fixed at \$900.00 plus disbursements of \$127.00, for a total of \$1,027.00.

Costs of the Trial

Costs are capped at 15% of the amount claimed with two exceptions:

1. Under s. 29 of the Courts of Justice Act, additional costs can be allowed to penalize a party or a party's representative for unreasonable behaviour in the proceeding. It is conduct that justifies a higher award, not complexity of the case. Neither the Defendant nor her representative acted unreasonably and I find no basis for ordering additional costs under s. 29;
2. Under R. 14.07, costs can be awarded in excess of the cap if the plaintiff obtains a judgment as favourable as or more favourable than the terms of the offer, the offer was

made at least seven days before the trial and the offer was not withdrawn and did not expire before the trial.

It appears that all of the prerequisites set out in R 14.07 have been met by the Plaintiff. The Plaintiff succeeded in obtaining an award equal to approximately 165% of the amount of the Plaintiff's offer. In the circumstances, I find it appropriate to fix the costs of the trial at \$10,500, being 15% of the amount claimed and doubled pursuant to the provisions of R. 14.07, plus disbursements of \$714.59, for a total of \$11,214.59.

I disregard the submission of both parties concerning the so-called "global" settlement efforts concerning matters related to the Estate of Milton Westover. Those issues were not justiciable in the trial before me and are therefore irrelevant on the question of costs of this action.

The Defendant is ordered to pay costs in the amount of \$12,241.59 to the Plaintiffs.

June 29, 2026

Jack Jamieson, Deputy Judge

Signature of Judicial Official