

COURT FILE NO.: CV-18-1938-00
DATE: 2021 05 28

SUPERIOR COURT OF JUSTICE - ONTARIO

RE: KELLY LYNN DONOVAN v. WATERLOO REGIONAL POLICE SERVICES BOARD and BRYAN LARKIN

BEFORE: BIELBY J.

COUNSEL: Kelly Lynn Donovan, Plaintiff, self-represented
Donald Jarvis and Cassandra Ma, for the Defendants

HEARD: In Writing

COSTS ENDORSEMENT

Justice Thomas A. Bielby

[1] On April 19, 2021, I released my ruling on the Defendants' Rule 21.01 (3)(a) motion. The Defendants were successful in having the action dismissed for lack of jurisdiction.

[2] The Defendants seek costs of \$15,000 payable in 30 days and submit that the actual costs incurred were in excess of \$27,000. It is submitted that even on a partial indemnity basis, the costs would exceed \$16,000.

[3] The Plaintiff, who represents herself, submits that her fees, based upon \$150 per hour, at the full indemnity rate would amount to almost \$11,000, together with disbursement expenses of \$3,955.

[4] The Plaintiff submits that, in considering costs, the court should take into consideration the facts that the Defendants have acted in bad faith and have unduly delayed matters and are responsible for the need to have the Rule 21.01 motion heard twice.

[5] With respect to this argument, the issues of bad faith, delay, and the matter being heard on two occasions were addressed when the motion was before me. I did not conclude there was any bad faith on the part of the Defendants.

[6] The Defendants' motion was successful and, as the successful parties, are entitled to costs.

[7] I have had regard to Rule 57.01 and find the issues on the motion were complex and important. The materials were voluminous, and the issues were before the court for a long period of time.

[8] The fact that the Plaintiff in August 2018 offered to settle the matters between the parties is irrelevant. The Plaintiff's offer included a payment of monies on the part of the Defendants.

[9] I have reviewed the cost outline and find that the costs sought by the Defendants are reasonable and proportional, especially when compared to the costs sought by the Plaintiff. They certainly fall within the range of costs awarded on Rule 21.01 motions.

[10] Accordingly, I order the Plaintiff to pay to the Defendants costs in the amount of \$15,000, inclusive of disbursements and HST, payable in 120 days.

A handwritten signature in black ink, appearing to read "M. Bielby J.", with a stylized flourish at the end.

Bielby J.

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