

CITATION: Dyck v. Barrie Municipal Non-Profit Housing Corporation, 2025 ONSC 2775
BARRIE COURT FILE NO.: CV-24-00003257-0000
DATE: 20250506

SUPERIOR COURT OF JUSTICE - ONTARIO

RE: LEAH DYCK, Applicant

AND:

BARRIE MUNICIPAL NON-PROFIT HOUSING CORPORATION,
Respondent

BEFORE: The Hon. Justice S.E. Fraser

COUNSEL: Leah Dyck, Self-Represented Applicant

Riley Brooks, for the Respondent

HEARD: In writing

COSTS ENDORSEMENT

- [1] The Respondent seeks its costs of this Application, asking that they be fixed in the amount of \$10,000.00 or alternatively on a partial indemnity basis in the amount of \$9,076.85.
- [2] The Applicant argues that she should not have to pay costs. She argues that a derivative action was the only way that she could get an investigation into her belief that the Respondent is overcharging its tenants. She resists an award of costs but acknowledges that the successful party is entitled to its costs.
- [3] Costs are discretionary. Section 131 of the *Courts of Justice Act* provides that “the costs of and incidental to a proceeding or a step in a proceeding are in the discretion of the court, and the court may determine by whom and to what extent the costs shall be paid.” Absent special circumstances, the general rule of costs is that costs follow the event and that costs are awarded on a partial indemnity scale. It follows that costs should be awarded to the Respondent.
- [4] Costs are awarded to indemnify the successful party of the legal costs that they incurred, to encourage settlement, to deter frivolous actions and defences and to discourage unnecessary steps that unduly prolong the litigation. See: 1465778 *Ontario Inc. v. 1122077 Ontario Ltd.*, 2006 CanLII 35819, 82 O.R. (3d) 757 (C.A.), at para. 26. In my view, there was no merit to the Application and costs should be awarded to deter the Applicant and others.
- [5] In addition to the result of the proceeding and any offer to settle or contribute made in writing, when deciding on a costs award, the Court may consider the factors set out in subrule 57.01(1) of the *Rules of Civil Procedure*. The overriding principle is what is a fair

and reasonable amount that should be paid by the losing party: see *Boucher v. Public Accountants Council for the Province of Ontario* (2004), 71 O.R. (3d) 291 (C.A.), at para. 24.

- [6] I begin with stating that the Respondent as the successful party is entitled to costs. A partial indemnity scale is the applicable scale here. I do not see this as a case for substantial indemnity costs. The amount claimed by the Respondent is reasonable, given the number of attendances and the issues involved.
- [7] I also accept that Ms. Dyck should be deterred from further proceedings and that costs are a means to do so. I am mindful also that costs also serve to chill access to justice. Courts exist to resolve disputes. See: *Baines v. Hehar*, 2013 ONSC 849, at para. 27, quoting *Walsh v. 1124660 Ontario Ltd.*, [2007] O.J. No. 2773, 2007 CanLII 27588 (S.C.J.), at para. 25.
- [8] In this case, I must confront that the Applicant has limited ability to pay the costs of this Application as she is in receipt of social assistance and her income is fixed. She has made meritless claims against Barrie Housing.
- [9] At the same time, the Respondent is a non-profit housing corporation whose resources at responding to this litigation, detracts from its other work for low-income persons.
- [10] This Court has already made a costs award in the amount of \$9,000 in another proceeding involving the same parties which remains unsatisfied. I do not expect that the Applicant would be able to satisfy a costs award fixed in the quantum sought by the Respondent. While the Applicant does not say that in her submissions, she states that she is not capable of agreeing to pay \$9,076.85, and I interpret that as relating to her ability to pay.
- [11] I find that the Applicant must pay something. In my view, the fair and reasonable award in the circumstances is \$2,500.00 inclusive of HST and disbursements and the interests of justice would not be served by a higher award in this case. It is a significant amount of money for a person on ODSP. The Applicant would have understood this to be a potential consequence of bringing the Application. She shall have six months to pay.
- [12] I therefore order the Applicant to pay to the Respondent the costs of this Application fixed in the amount of \$2,500.00 payable within six months of this Order.



Justice S.E. Fraser

Date: May 6, 2025