

2013 CarswellOnt 4183, 2013 ONSC 2066

2013 CarswellOnt 4183, 2013 ONSC 2066

York **Condominium Corp.** No. 82 v. Singh

York **Condominium Corporation** No. 82, Applicant and Nutan Singh, Narayan Sundar Singh and Namita Singh,
Respondents

Ontario Superior Court of Justice

Spence J.

Heard: February 20, **2013**; February 21, **2013**; February 22, **2013**

Judgment: April 9, **2013**

Docket: CV-12-448324

© Thomson Reuters Canada Limited or its Licensors (excluding individual court documents). All rights reserved.

Counsel: Derrick M. Fulton, for Applicant

C.A. Kazembe, for Respondents

Subject: Civil Practice and Procedure; Property

Judges and courts

Real property

Spence J.:

- 1 This is an application that has been converted into an action.
- 2 The Respondents, Nutan Singh and Narayan Singh, have not appeared.
- 3 The Applicant, York **Condominium Corporation** No. 82 ("YCC 82"), seeks an Order in contempt and related

2013 CarswellOnt 4183, 2013 ONSC 2066

relief against the Respondents. By order of Stinson J., dated July 7, 2011, the Respondents were:"restrained from conducting the business of selling alcohol and cigarettes at YCC 82, as set out in paragraph 1 of that Order.

4 YCC 82 also claims that the Respondents are in breach of the *Condominium Act, 1998*, S.O. 1998, c. 19, as amended (the "Act") and sections 117 and 134 thereof.

The Law on Contempt

5 In *1196303 Ontario Inc. v. Glen Grove Suites Inc.*, 2009 Can LII 40564, C. Campbell J. of this Court said as follows at paragraphs 13 and 14:

¶[13] Recent decisions from the Court of Appeal of Ontario emphasize the requirements for a finding of civil contempt. The decision in [2009 ONCA 3](#) (CanLII), 2009 ONCA 3 confirms at paragraph 50 that the finding must be made on the criminal standard, "beyond a reasonable doubt." The commentary at paragraph 65 makes it clear that "an undertaking ... given by a party or his counsel to the court in the course of legal proceedings as a condition of obtaining a concession from the court or the opposite party" is enforceable by a Contempt Order.

¶[14] In [2009 ONCA 85](#) (CanLII), 2009 ONCA 85, the Ontario Court of Appeal confirmed the seriousness of the allegation:

[20] A finding of contempt of court is a serious matter that is quasi-criminal in nature. It is "first and foremost a declaration that a party has acted in defiance of a court order": *Pro Swing Inc. v. Elta Golf Inc.*, [2006 SCC 52](#) (CanLII), [\[2006\] 2 S.C.R. 612](#), at para. 35. The potential penal sanctions facing a contemnor underscore the seriousness of such a finding. As the Supreme Court of Canada has observed, "[t]he penalty for contempt of court, even when it is used to enforce a purely private order, still involves an element of 'public law', in a sense, because respect for the role and authority of the courts, one of the foundations of the rule of law, is always at issue": *Pro Swing*, at para. 34, citing *Vidéotron Ltée v. Industries Microlec Produits Électroniques Inc.*, 1992 CanLII 29 (SCC), [\[1992\] 2 S.C.R. 1065](#), at p. 1075. This court has recently reaffirmed these principles in [2009 ONCA 3](#) (CanLII), 2009 ONCA 3, at paras. 10-11. It is for these reasons that motions for contempt are often said to be *strictissimi juris*, *i.e.*, that all proper procedures must be strictly complied with: see *Dare Foods (Biscuit Divisions) Ltd. v. Gill*, [\[1973\] 1 O.R. 637](#) (H.C.J.); *Toronto Transit Commission v. Ryan* [reflex \(1998\), 37 O.R. \(3d\) 266](#) (Gen. Div.)

[21] The three constituent elements of the test for civil contempt were summarized by this court in [Prescott-Russell Services for Children and Adults v. G.\(N.\) reflex \(2006\), 82 O.R. \(3d\) 686, at para. 27](#):

The criteria applicable to a contempt of court conclusion are settled law. A three-pronged test is required. First, the order that was breached must state clearly and unequivocally what should and should not be done. Secondly, the party who disobeys the order must do so deliberately and wilfully. Thirdly, the evidence must show contempt beyond a reasonable doubt. Any doubt must clearly be resolved in favour of the person or entity alleged to have breached the order. [Citations omitted.]

2013 CarswellOnt 4183, 2013 ONSC 2066

[22] See also *Hobbs v. Hobbs*, [2008 ONCA 598](#) (CanLII), [\(2008\), 54 R.F.L. \(6th\) 1](#), at paras. 26-28. In relation to the first of these elements, it must be clear to a party exactly what must be done to be in compliance with the terms of an order: *Pro Swing*, at para. 24. In relation to the third element, the requirement of proof beyond a reasonable doubt ensures that the potential penal consequences of a finding of contempt are not ordered lightly: *Korea Data Systems*, at paras. 10-11.

6 In *Bell ExpressVu*, the Court of Appeal continued its reasons as follows:

¶[24] ...[the motion judge] focused solely on the question of deliberate and wilful disobedience of the orders. The motion judge does not appear to have considered the requirements that the terms of an order must be sufficiently clear and unequivocal or that contempt must be proven beyond a reasonable doubt. The strength of a finding of deliberate disobedience of an order weakens progressively with the lack of clarity in the terms of the order against which the disobedience must be measured.

Section 134 of the Condominium Act, 1988

7 Section 134 of the Act provides as follows:

134. (1) Subject to subsection (2), an owner, an occupier of a proposed unit, a corporation, a declarant, a lessor of a leasehold **condominium corporation** or a mortgagee of a unit may make an application to the Superior Court of Justice for an order enforcing compliance with any provision of this Act, the declaration, the by-laws, the rules or an agreement between two or more corporations for the mutual use, provision or maintenance or the cost-sharing of facilities or services of any of the parties to the agreement. 1998, c. 19, s. 134 (1); 2000, c. 26, Sched. B, s. 7 (7).

Pre-condition for application

(2) If the mediation and arbitration processes described in section 132 are available, a person is not entitled to apply for an order under subsection (1) until the person has failed to obtain compliance through using those processes. 1998, c. 19, s. 134 (2).

Contents of order

(3) On an application, the court may, subject to subsection (4),

(a) grant the order applied for;

(b) require the persons named in the order to pay,

(i) the damages incurred by the applicant as a result of the acts of

2013 CarswellOnt 4183, 2013 ONSC 2066

- (ii) the costs incurred by the applicant in obtaining the order; or
- (c) grant such other relief as is fair and equitable in the circumstances. 1998, c. 19, s. 134 (3).

Order terminating lease

(4) The court shall not, under subsection (3), grant an order terminating a lease of a unit for residential purposes unless the court is satisfied that,

- (a) the lessee is in contravention of an order that has been made under subsection (3); or
- (b) the lessee has received a notice described in subsection 87 (1) and has not paid the amount required by that subsection. 1998, c. 19, s. 134 (4).

Addition to common expenses

(5) If a corporation obtains an award of damages or costs in an order made against an owner or occupier of a unit, the damages or costs, together with any additional actual costs to the corporation in obtaining the order, shall be added to the common expenses for the unit and the corporation may specify a time for payment by the owner of the unit. 1998, c. 19, s. 134 (5).

8 Under s. 1(1) of the Act, "corporation" means "a corporation created or continued under this Act" and therefore includes YCC 82.

9 As set out below, it is in order to consider the relief sought here, both in terms of the law of contempt and the provision in s. 134(3)(c) of the Act which authorizes the Court to "grant such other relief as is fair and equitable in the circumstances".

10 In this regard, the restriction in s. 134(2), set forth above, must be addressed. The Applicant has requested an Order dispensing with arbitration and mediation in this matter.

11 In the circumstances of the case, given that the Applicant is seeking to enforce an order of the court with a finding of contempt and an order to vacate and sell, there is no reason to suppose that arbitration or mediation would be productive. Nor is there any apparent prejudice to the Respondents if the requested order to dispense with arbitration or mediation is granted. The Respondents have not opposed the granting of such an order. Accordingly, the requested order is granted.

Background Facts

2013 CarswellOnt 4183, 2013 ONSC 2066

12 The Respondents are the Owners and Occupants of a Unit in YCC 82, namely PIN: 11082-0049 (LT), Unit 49, Level 1 York Condominium Plan No. 82 and municipally known as Unit 149, 4645 Jane Street, Toronto, Ontario, M3N 2K9 (hereinafter the "Unit"). Specifically, Nutan Singh and Narayan Sundar Singh are the owners noted on title and Namita Singh has lived in Unit 149 with them since she bought the Unit in 2010.

13 On the 7th day of January, 2011, Stinson J. ordered that the Respondents be and are restrained from conducting the business of selling alcohol and cigarettes at YCC 82.

14 Under Paragraph 1 of Article VIII of the Declaration for YCC 82, the Respondents are to occupy their unit and use the same only as a residence for a single family and for no other purpose.

15 Since the Respondents bought the Unit, there has been a continuous and steady stream of human traffic in and out of the Unit and around the Unit. Individuals would enter Unit 149 empty handed and exit with unmarked bags filled with contents. The Respondents have been observed collecting monies from individuals who received such plastic bags. Unit owners and others have stated that the Respondents are selling alcohol.

16 The apparent selling of alcohol by the Respondents and the consumption in public areas of alcohol apparently purchased in such sales are creating problems at YCC 82 and creating a situation of danger and an unsafe environment. There have been disorderly activities. The police had to be called in. The police have attended at the Unit on several occasions.

17 The Respondents have ignored all requests to stop selling alcohol.

18 Security officers at YCC 82 have observed the Respondents continuing to engage in these sale transactions from their Unit 149.

19 Surveillance reports, together with photographs and DVDs on activities of the Respondents conducted by The Discovery Group of Investigators (the "Investigators") in July and August of 2012 disclose that the Investigators observed, among other things, that various individuals entered Unit 149 empty-handed and exited with bags; various individuals entering Unit 149 empty-handed and exited with bags.

20 On September 3, 2012, two investigators attended at Unit 149 and purchased 12 cans of Corona beer from the Respondent Namita Singh for \$40.

Specific Evidence about Beer Sales at Unit 149

21 Counsel for YCC 82 advised that the order which converted the application into an action provided that the material filed on the application was to be treated as the examination-in-chief of the affiants at trial. The Court received the Affidavits of the witnesses Norbert Berger, Karim Thomas, Anthony D'Orazio and the Respondent Namita Singh as part of their respective evidence-in-chief. The witnesses were examined and cross-examined.

2013 CarswellOnt 4183, 2013 ONSC 2066

22 The credibility of the affidavit evidence of the witnesses for the Applicant referred to below was not weakened by other evidence given in the course of the trial.

23 In the Affidavit of Karim Thomas, Security Consultant for Shield Protection Services Ltd., the security service provider of YCC 82, sworn March 23, 2012, paragraphs 10, 11, 12 and 14 show that the sale of beer in and from Unit 149 has been a regular and continuous activity, as follows:

10. I have observed on many occasions individuals entering Unit 149 empty handed and coming out of the aforesaid unit with unmarked bags. I have also observed on many occasions money being handed over to Namita Singh, the daughter of the Respondents Nutan Singh and Narayan Sundar Singh and I have seen bags being delivered to those individuals who handed over funds. I have seen this activity about 8 times.

11. On one occasion I stopped an elderly gentleman as he was leaving Unit 149. I asked him what he was doing and he indicated to me that he 'was here to buy beer, not to be harassed'.

12. There appears to be other activity being carried out in Unit 149 as the police have attended at least on three occasions that I am aware of. I personally witnessed the Respondent, Nutan Singh, throwing her identification out of the window for the police and I heard her verbally assault the police on this occasion.

14. As a security officer at YCC 82, I can say that the selling of alcohol out of Unit 149 is creating problems at YCC 82. There is continuous traffic in and around the Unit; many of the individuals do not live at YCC 82. The selling of beer is creating an unsafe environment and it appears to be creating an environment where others think that they can now sell such things out of their units. We are currently investigating Unit 337 where we understand beer is now being sold.

24 In the Affidavit of Norbert Berger, sworn March 28, 2012, paragraphs 11, 12 and 13 show that the conduct of the owners of Unit 149 has been wilful and deliberate, as follows:

11. I have spoken to the Respondent, Nutan Singh, requesting that the selling of alcohol from Unit 149 be stopped. I also informed the respondent that they are breaching the Order of the Court restraining them from selling alcohol at YCC 82.

12. The Respondent, Nutan Singh, has been very aggressive, abusive, insulting [sic] and accusatory towards me. She denies that the Respondents are selling alcohol out of the Unit, implying that she intends to continue their activities despite the Order of the Court to the contrary.

13. Notwithstanding informing the Respondents that there are security reports detailing the selling of alcohol from their Unit, the Respondents have shown no regard for the Order of the Court and wilfully continue to sell alcohol from their Unit.

25 In the Affidavit of Norbert Berger, Property Manager, YCC 82, sworn September 17, 2012, paragraph 7 deals

2013 CarswellOnt 4183, 2013 ONSC 2066

with the September 3, 2012 beer sale as follows:

Attached hereto and marked as Exhibit '3' are a Surveillance Report together with photographs, transcript of the conversation and DVD on activities of the Respondents conducted by the Investigators on September 3, 2012. The Investigators attended at Unit 149 to purchase beer. One of the Respondents opened the door, invited the investigators to enter the unit and sold the investigators twelve cans of Corona for \$30.00. Video footage of the beer purchase was obtained and is contained in the DVD attached hereto. Surveillance footage from outside the apartment unit was also obtained. A transcript of the conversation with the Respondent and the investigators is also attached. The photographs clearly show the selling of alcohol. I verily believe that the female individual in the photographs is one of the owners of Unit 149.

26 In the Affidavit of Anthony D'Orazio, President of The Discovery Group of Investigators, sworn February 13, 2013, he provided his report on the investigation of beer sales at Unit 149 on September 3, 2012.

The Video and Audio Records of the Sale Transaction of September 3, 2012

27 A video record was taken of the transactions and the audio record of the conversation between the two investigators and Namita Singh was transcribed.

28 In paragraphs 25 to 28 of her Supplementary Affidavit, sworn October 31, 2012, Namita Singh gave her account of her September 3, 2012 dealings with the two investigators, as follows:

25. I heard knocking on my front door so I opened the door. I saw a man that I did not know. I asked him what he wanted. He said to me that he wanted to buy twelve Corona. I said, sorry you have the wrong place we don not sell beer here. I closed my door and I came back in the house.

26. The man came knocking at my door gain. I opened the door and asked him what he wanted. He said 'my buddy Dean asked me to pick up twelve Corona from you'. I know Dean personally. Dean lives in the building. I called Dean and said there is a man at the door who said he is here to pick up twelve Corona that you left here. Dean asked me to give him the twelve Corona that he left in my freezer to cool. The man at the door in a rush took the twelve Corona, handed me \$40.00 and split.

27. Dean wanted me to keep the beer at my place because some young men from the complex were at the back drinking and he wanted the beer to be kept in my fridge to be cool. Dean is a resident who rents an apartment in the complex.

28. When the man came to my door, I thought he was one of [the] guys at the party. He asked for twelve Corona and Dean had left twelve Corona with me to be kept cool.

29 Her version of events differs from the video and audio transcript records in important respects. Namita Singh says that in the early part of the event, she closed her door and went back in the house and then "the man came

2013 CarswellOnt 4183, 2013 ONSC 2066

knocking at my door again". The video does not show any such first encounter. The video shows that there were two callers together, a man and a woman. Namita Singh, in her testimony, said there must be a video of the earlier encounter which is being concealed.

30 Ms. Singh, in her Supplementary Affidavit, at paragraph 26, says that the man at her door then said "my buddy Dean" asked him to pick up 12 Corona from her. On the audio record, the investigator says only that he got Ms. Singh's number from his "buddy". There is no mention of the name "Mr. Dean".

31 Ms. Singh, in her Supplementary Affidavit, at paragraph 26, says that after the man at the door mentioned "Dean", she telephoned Dean (who she said was a building resident whom she knew) and told him about the caller's request for 12 Corona that Dean had left with her and Dean asked her to give the Corona to him. On the video record, there is no moment when Ms. Singh takes the time away from the callers at her door that would have been necessary for her to take to be able to make a telephone call to "Dean".

32 For the reasons given above, Ms. Singh's version of the encounter in her Supplementary Affidavit cannot be true.

33 Ms. Singh sought to vary her version of the encounter in the course of her testimony. In cross-examination, she said that the caller came to the door three times and it was on the third call that she gave him the beer.

34 Based on the evidence, the video record and the audio transcript of the September 3, 2012 encounter are accurate. There is no reason to believe that there was an immediately preceding encounter at the door, as Ms. Singh swears, or that there were two such preceding encounters as she said in her cross-examination. The video provides a complete record of the encounter. Ms. Singh sold 12 Corona to the investigators and received \$40.00 in payment.

35 Counsel for the Respondents submitted that the transaction on September 3, 2012, could not properly be regarded as "deliberate and wilful" because the investigators were engaged in a "sting operation" that was not *bona fide*, but just for the purpose of "entrapment", to get evidence. Counsel did not propose a definition of "sting operation" or "entrapment" or submit that any particular result should follow if either of those terms was applicable.

36 The intention of the investigators was to get evidence and not to get beer for consumption. However, what a purchaser of beer intends to do with the beer that is purchased does not affect the validity of the transaction as a sale transaction. Ms. Singh wished to sell beer and the investigators wished to buy beer. They were *ad idem* and that is sufficient for an agreement which they then proceeded to execute by, on the one hand, the payment of the purchase monies and, on the other, the delivery of the beer.

The Other Evidence for the Respondents

37 In paragraph 14 of her Affidavit, sworn September 23, 2012, Ms. Singh denied that she ever sold beer from the Unit. Quite apart from the other evidence adduced by the Applicant, the evidence of the sale of beer on September 3, 2012 shows that the statement of Ms. Singh is not true.

2013 CarswellOnt 4183, 2013 ONSC 2066

38 At paragraphs 40 to 47, Ms. Singh sets out allegations against the Board of Directors of the Applicant and against the security company employed by the Board. The allegations against the security company and the security guards continue in paragraphs 49 to 65. In her testimony, Ms. Singh made further allegations along the same lines as in her Affidavit, but nothing that she said gave any substance to these allegations. The Respondents did not lead any evidence in support of them. In any event, the allegations do not contradict the evidence led by the Applicants that the Respondents were selling beer from the Unit.

39 The Respondents filed affidavits on the application from Nutan Singh, Narayan Sundar Singh and a Mr. Edward Glass. None of these persons attended at the trial.

Condominium Law

40 YCC 82 is under a positive obligation to take all reasonable steps to enforce the Act and the Corporation's Declaration, By-laws and Rules: the *Condominium Act, 1998*, S.O., 1998, c. 19, Section 17.

41 All Unit Owners and Occupants (among others) must comply with the Act, Declaration, By-Laws and Rules of the Corporation: the *Condominium Act, 1998*, S.O., 1998, c. 19, Section 19.

42 As noted above, in the event of violations by a Tenant or Owner, the Corporation may seek an Order for compliance under Section 134 of the *Condominium Act, 1998*. And if the violation continues, the Corporation may seek a second order terminating the tenancy: the *Condominium Act, 1998*, S.O., 1998, c. 19, Section 17.

43 Section 117 of the Act prohibits conduct that is "likely to damage the property or cause injury to an individual" and section 134 enacts a broad remedial power to enforce "compliance" with "this Act, the declaration, the by-laws [or] the rules".

44 The Applicant has the onus of establishing that the Respondents have violated the Act, or the Condominium Rules, that an order to sell and vacate their unit is necessary and appropriate to enforce compliance. *Metropolitan Toronto Condominium Corp No. 747 v. Koroleh*, [2010 CarswellOnt 5939](#), [2010 ONSC 4448](#), [95 R.P.R. \(4th\) 198](#), [322 D.L.R. \(4th\) 443](#).

45 Where it can be established that an Owner's misconduct is serious and persistent and where the impact on a small community has been exceptional and where the Respondent appears to be incorrigible or unmanageable, the Court may order a Unit Owner of a Corporation to list and sell her Unit: *Metropolitan Toronto Condominium Corp No. 747 v. Koroleh*, [2010 CarswellOnt 5939](#), [2010 ONSC 4448](#), [95 R.P.R. \(4th\) 198](#), [322 D.L.R. \(4th\) 443](#).

46 The Court's authority to make a compliance order is discretionary: [2006 CarswellOnt 5129](#), 51 R.P.R. (4th) 150 A.C.W.S. (3d) 951, paragraph 13.

47 If a court finds a party in contempt of a previous Court Order, the Court may, among other things, order a

2013 CarswellOnt 4183, 2013 ONSC 2066

person in contempt to "comply with any other Order that the Judge considers necessary": *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, Rule 60.11(5)(f).

Conclusions

48 Based on the evidence, and in particular, the evidence about the September 3, 2012 sale transaction, the Respondent, Namita Singh, has been engaged in selling beer at YCC 82 since the Order of Stinson J. of January 7, 2011. The restriction set out in that Order is clear and unequivocal. Namita Singh has disobeyed that order deliberately and wilfully. The evidence that supports that conclusion shows the contempt of the Respondent beyond a reasonable doubt.

49 Accordingly, I find that the Respondent, Namita Singh, is in contempt of the Order of Stinson J. of January 7, 2011.

50 With respect to Narayan Singh and Nutan Singh, it is necessary to take into account the fact that each of them is subject to the Order of Stinson J. and is a registered owner and occupant of Unit 149. Their permission was essential for the activity of selling beer to be carried on in and from the Unit.

51 As the registered owners of Unit 149, Narayan Singh and Nutan Singh have the responsibility to comply with the Act, the Declaration, the By-laws and the Rules of YCC 82.

52 Since Narayan Singh and Nutan Singh were occupants of Unit 149, they must have been aware that beer was being sold from Unit 149 and therefore that the Order of Stinson J. was being breached, yet they allowed the offensive conduct to continue.

53 Neither of the two Respondents attended the trial to provide evidence.

54 Accordingly, I find the Respondents Nutan Singh and Narayan Sundar Singh are also in contempt of the Order of Stinson J. of January 7, 2011.

55 Rule 28 of the Rules and Regulations of YCC 82 require owners and occupants not to do anything that "will annoy or disturb or interfere in any way with other owners or other occupant or those having business with them".

56 It was not disputed that it is illegal for individuals to sell beer. Each of the units is, by Article VIII of the Declaration, to be occupied and used only as a residence for a single family and no other purpose.

57 By using and allowing the use of Unit 149 for the illegal activity of selling beer the Respondents have, in the case of Namita Singh, breached the Order of Stinson J. and in the case of the other two Respondents, have facilitated that breach of the Order. They have also contravened or facilitated the contravention of Article VIII of the Declaration. Moreover, by allowing the use of Unit 149 for the sale of beer, the three Respondents have enabled the disorderly and often lawless activities that have occurred in the common areas near Unit 149 along with the violence that has occurred

2013 CarswellOnt 4183, 2013 ONSC 2066

from time to time. Accordingly, they are also in breach of Rule 28 of the Rules and Regulations of YCC 82.

58 Unless barred from YCC 82 and ordered to dispose of their interest at YCC 82, the Respondents will continue sell alcohol out of their Unit. There is every likelihood that the Respondents will not comply with any future orders of the court and would take every step to frustrate the carrying out of such orders. In these circumstances, the order should provide for steps that will ensure that the current conduct will be effectively ended and will not be resumed.

Relief Ordered

59 Based on the foregoing, the following relief is granted against the Respondents:

- (1) an order that the Respondents, Nutan Singh, Narayan Sundar Singh and Namita Singh are in contempt of the order of Stinson J. dated the 7th day of January, 2011;
- (2) that the Respondent Namita Singh be fined the amount of \$10,000, payable within 30 days of the release of these reasons;
- (3) that the Respondents, Nutan Singh and Narayan Sundar Singh each be fined in the amount of \$2,500.00, payable within 30 days of the release of these reasons;
- (4) that the Respondents Nutan Singh, Narayan Sundar Singh and Namita Singh are required to sell and vacate their unit within three months of release of these Reasons for Decision;
- (5) an Order barring the Respondents Nutan Singh, Narayan Sundar Singh and Namita Singh, from YCC 82;
- (6) an Order barring the Respondents Nutan Singh, Narayan Sundar Singh and Namita Singh, from jointly and severally, and their servants, agents, employees and any and all persons acting on behalf of or in conjunction with any of them, directly or indirectly, by any means whatsoever, from having any interest whatsoever in YCC 82; and
- (7) costs of this Application on a substantial indemnity basis as set out below and an order that the Applicant is at liberty to recover such costs in the same manner as unpaid common expenses.

60 The costs payable by the Respondents to the Applicant shall be \$32,462.81 on account of fees, which includes \$9,000.00 for the counsel fee at trial, plus disbursements in the amount of \$8,462.81, plus HST as applicable. The total amount shall be payable within 90 days of the release of these Reasons for Decision.

END OF DOCUMENT