

Case Name:

Metropolitan Toronto Condominium Corp. No. 634 v. Adamo

Between
Metropolitan Toronto, Condominium Corporation,
No. 634, Applicant, and
Waleed Adamo, Respondent

[2015] O.J. No. 5805

2015 ONSC 6730

Court File No.: CV-14-498728

Ontario Superior Court of Justice

D.L. Corbett J.

October 30, 2015.

(6 paras.)

Counsel:

Joseph W. Ryan for the Applicant.

Mr Adamo self-represented.

COSTS DECISION

1 D.L. CORBETT J.:-- This application was brought by the applicant condominium corporation to compel Mr Adamo to bring his fireplace into compliance with fire regulations. By the time the matter finally reached this court, Mr Adamo had complied with the applicant's demand. The remaining issue is costs.

2 At the hearing the applicant produced a bill of costs showing a claim for partial indemnity costs of \$30,000. During oral argument it moderated this position to \$15,000, plus disbursements and HST. I described this claim as appearing to be "exorbitant" given the nature of this application, which I suggested should ordinarily attract an order for partial indemnity costs in the range of \$3,500 to \$5,000. I directed that the applicant provide me with a docket narrative. Having reviewed the history of the file, it is now easier to understand how the costs got higher than one would ordinarily expect for a matter of this nature.

3 The underlying issue was not of Mr Adamo's making: it affected all owners of units with fireplaces. The condominium corporation gathered the necessary information and coordinated a remedial plan for all the affected owners. No doubt it was unwelcome news for the affected owners, but it was a maintenance problem that simply had to be fixed. Mr Adamo resisted fiercely and took the position that the problem was caused by the condominium corporation's failure to perform annual maintenance, a claim that was never proved. Mr Adamo was clear in his refusal to remedy the problem, either in the manner proposed by the applicant, or on his own, and told the condominium corporation that it would have to obtain a court order if it wanted to compel him to fix the problem.

4 In this context, Mr Adamo has only himself to blame for the fact that the applicant incurred costs to bring this matter to court. The applicant took all reasonable steps and showed real patience with Mr Adamo prior to commencing litigation.

5 On the other hand, the applicant's entitlement to indemnity for costs is restricted to the costs reasonably necessary for the litigation itself, and not extra-litigation efforts to identify and rectify the problem. Those costs must be proportional and consistent with Mr Adamo's reasonable expectations of the costs he might be called upon to pay: *Boucher v. Public Accountants Council for the Province of Ontario* (2004), 71 O.R. (3d) 291 (Ont. C.A.).

6 Taking everything into account, I am satisfied that a reasonable award of partial indemnity costs is \$9,000, inclusive. As indicated in my original endorsement, Mr Adamo shall pay this amount at the rate of \$500 per month, without interest, provided he continues to own his condominium. If he sells his condominium prior to retiring his costs obligations, then the balance of the costs order then outstanding shall be payable immediately.

D.L. CORBETT J.