

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

BETWEEN:

DIRK AARON SINGERLING

Appellant

- and -

NORTHVIEW FUND

Respondent

MEMORANDUM OF JUDGMENT AS TO COSTS

[1] This is a decision on the issue of costs following my decision on an appeal from a decision of the Rental Officer made pursuant to the *Residential Tenancies Act*, RSNWT 1988, c R-5. The Respondent Northview Fund filed an application with the rental officer claiming that the Appellant Dirk Aaron Singerling had repeatedly failed to pay his rent and requesting the termination of the tenancy, the eviction of the tenant and that the tenant pay the rent owing.

[2] A hearing was held and the Rental Officer granted the application and ordered that the Appellant pay rental arrears in the amount of \$16,393.02, terminated the tenancy agreement and required that the Appellant be evicted from the rental premises.

[3] Mr. Singerling filed an Originating Notice of Appeal on the ground that he was not given the opportunity to make payment arrangements for arrears that occurred during the Covid-19 pandemic. He sought to have the eviction overturned and to set up a payment plan while he continued to reside in the apartment.

[4] Last week, I dismissed the Appellant's appeal. Counsel for the Respondent then sought costs in the amount of \$2,572.50. The Appellant made no submissions on the issue of costs. Rather than have the parties return for another date for the decision on costs, I reserved indicating that a brief written decision would be provided.

[5] The general rule is that a successful party is entitled to their costs. This is subject to the Court's discretion to award costs. A court's discretion with respect to costs is broad. When costs are awarded, it is often on a party and party basis which provides partial indemnity for the costs of some steps incurred in the course of litigation. These are set out in Schedule "A" of the *Rules of Court of the Supreme Court of the Northwest Territories* and the amounts vary depending on the amount at issue in the litigation.

[6] The Respondent has submitted a bill of costs which outlines the specific items in Schedule "A" that are being claimed. This amounts to \$1,225.00 in costs which the Respondent argues should be enhanced based on the tariff amounts being outdated. The Respondent suggests doubling that amount to \$2,450.00 for fees plus GST on the fees. In addition, the Respondent claims disbursements and GST on the disbursements in the total amount of \$295.16.

[7] Costs can be awarded on an enhanced basis as well. Determining whether costs in excess of the amount provided for in the *Rules* requires a consideration of a number of factors including the reasonableness of the fees, the inadequacy of the tariffs, the complexity of the matter, and whether the issues are important for the parties or the larger community: *WCB v Mercer et al*, 2012 NWTSC 78 at para. 11.

[8] The Tariff has been in place since November 1, 2012. Prior to the amendment of the Tariff, several decisions acknowledged the inadequacy of the Tariff which had been in place for quite some time. The amended Tariff has been in place for almost a decade now which is a significant period of time. I am not aware of any decisions which have previously determined that the current Tariff is outdated or inadequate. Counsel did not bring any cases to my attention or otherwise establish that the Tariff is outdated. In the circumstances, on the materials before me, I decline to find that the Tariff is inadequate and that the fees claimed by the Respondent should be doubled as a result.

[9] This appeal required the Respondent to file a Pre-Hearing Conference brief and a factum as well as to attend the mandatory pre-hearing conference and the appeal. The issues on the appeal were straightforward and not complex. Substantial

preparation or research would not have been required and the Record was not voluminous.

[10] Reviewing the circumstances, I conclude that this is an appropriate case to make a lump sum order for costs. I have taken into account the amounts included in the draft Bill of Costs of the Respondent, in Column 1 of Schedule A, the appearances required by the Respondent on this matter as well as the materials filed on the appeal. Taking these into consideration, I conclude that the Respondent is entitled to a lump sum of \$400.00, plus disbursements.

[11] For the reasons stated, I order the following:

- 1) The Appellant shall pay the Respondent costs in the amount of \$400.00 plus disbursements and GST in the amount of \$295.16 for a total of \$695.16.

S.H. Smallwood
J.S.C.

Dated at Yellowknife, NT, this
11th day of August, 2022

Self-Represented Appellant:

Dirk Aaron Singerling

Counsel for the Respondent:

Stefanie Laurella

S-1-CV-2022-000095

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