

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Speckling v. Local 76 of the Communications, Energy and Paperworkers' Union of Canada*,
2024 BCSC 86

Date: 20240117
Docket: S022782
Registry: Vancouver

Between:

Walter L.M. Speckling

Plaintiff

And

**Local 76 of the Communications, Energy and Paperworkers' Union of Canada,
Communications, Energy and Paperworkers' Union of Canada
and others yet unknown**

Defendants

Before: The Honourable Justice Iyer

Ruling on Costs

Agent for the Plaintiff:

B. Speckling

Counsel for the Defendant Local 76 of the
Communications, Energy and
Paperworkers' Union of Canada:

J. Rogers, K.C.
A. Tremblay

Counsel for the Defendant
Communications, Energy and
Paperworkers' Union of Canada:

M. Shirreff

Written Submissions of Plaintiff:

January 11, 2024

Written Submissions of Defendant,
Communications, Energy and
Paperworkers' Union of Canada

November 16 and 23, 2023

Written Submissions of Defendant Local 76
of the Communications, Energy and
Paperworkers' Union of Canada:

November 24, 2023

Place and Date of Judgment:

Vancouver, B.C.
January 17, 2024

INTRODUCTION

[1] The underlying action arises from a dispute that arose in the late 1990s between the plaintiff, Walter Speckling, and the defendant unions of which he was a member: Local 76 of the Communications, Energy and Paperworkers' Union of Canada ("Local 76") and the Communications, Energy and Paperworkers' Union of Canada ("National Union").

[2] The litigation has an extensive history, both before the Labour Relations Board and in the courts. This history is summarized in my decision (reported at 2023 BCSC 1446), in which I dismissed the plaintiff's claims against both defendants. At the conclusion of my Reasons, I granted leave to the defendants to apply to me to fix costs in a lump sum.

POSITIONS OF PARTIES

[3] The defendants have each made submissions on the appropriateness of me fixing costs and disbursements as opposed to the usual process of costs being fixed by a registrar. They point to Rule 14-1(15) of the *Supreme Court Civil Rules*, which grants the court the power to do so, and to a number of authorities that establish principles guiding the court's determination of when it should exercise its powers under Rule 14-1(15).

[4] The plaintiff submits that the defendants are not entitled to any costs but does not appear to take issue with the court's ability to fix costs rather than directing the matter to the registrar. While the plaintiff alleges that I am biased, this claim reiterates arguments I dismissed in previous bias applications. In any event, he does not say that my alleged bias means that I should not determine costs.

APPLICABLE LAW

[5] While the court's discretion to fix lump sum costs should be exercised sparingly, it is appropriate to do so where the case is very lengthy, complex and the judge is particularly familiar with the matter: *Buchan v. Moss Management Inc.*, 2010 BCCA 393 at paras. 12-13, 30-31; see also *Connor Financial Services International*

Inc. v. Carver, 2016 BCSC 1363 at para. 21; *C.Y.J. v. R.J.*, 2023 BCSC 140 at paras. 38-43.

[6] While costs decisions are a matter of broad discretion, there must be evidence that they are objectively reasonable on the applicable scale: *Herbison v. Canada (Attorney General)*, 2014 BCCA 461 at paras. 30-31.

ANALYSIS

[7] At the conclusion of my decision on the merits, I awarded the defendants costs on Scale B, which allows \$110 per unit.

[8] The defendants have each submitted affidavit evidence consisting of draft bills of costs and disbursements, as well as supporting material. Based on that evidence, Local 76 seeks to fix costs and disbursements in a lump sum of \$55,000 and the National Union seeks to fix costs and disbursements in a lump sum of \$40,000.

[9] The plaintiff's original claim in this matter was filed in May 2003. I was appointed case management judge in November 2017. Since then, I have conducted numerous case management conferences and a case planning conference, and I have decided over 20 applications.

[10] I am satisfied that this is an appropriate case for me to exercise my discretion to fix costs and disbursements in a lump sum.

[11] I have reviewed the evidence before me. Prior to my appointment as case management judge, the parties filed approximately 40 applications. Significant applications by the defendants included an application to have the plaintiff's claim struck and an application to compel the plaintiff to produce a list of documents. Significant applications by the plaintiff included an application to strike the defendants' responses to his claim, an application to determine that *res judicata* does not apply between Labour Relation Board decisions and court decisions, and an application to find counsel for Local 76 in contempt of court.

[12] Since becoming case management judge, Local 76 has sought to have me strike portions of the plaintiff's affidavits. Local 76 has also sought to have me strike the plaintiff's claim because of the plaintiff's allegedly abusive and vexatious conduct and as an abuse of process. The National Union has sought to amend its response to the plaintiff's claim and applied for summary trial. The plaintiff has sought reconsideration of certain of my decisions, withdrawn his summary trial application and filed a new summary trial application, sought to compel counsel for Local 76 to appear as a witness at trial, sought to further amend the pleadings and has applied for me to recuse myself on the ground of bias. I estimate that I have decided some 25 applications.

[13] During my time as case management judge, it was clear to me that Local 76 was the "lead" defendant. The National Union became a more active participant as time went on.

[14] Throughout the litigation, document production and, in particular, affidavit material filed with the Court relating to the various applications has been voluminous. Court staff resources have been taxed by persistent and unreasonable communications with scheduling staff, to the point where I had to place limits on the parties' communications with staff. The plaintiff was the primary source of these problems.

[15] I have reviewed each defendant's draft bill of costs and disbursements against this background. I am satisfied that the National Union's proposed lump sum of \$40,000 in costs and disbursements is objectively reasonable and justified. With respect to Local 76, I would reduce the proposed amount to \$53,000 inclusive of costs and disbursements. While I appreciate that the \$55,000 figure is discounted and that Local 76 was the primary defendant, certain of its applications were unnecessary.

CONCLUSION

[16] The plaintiff, Walter Speckling, shall pay the costs and disbursements of Local 76, fixed at the lump sum of \$53,000, and shall pay the costs and disbursements of the National Union, fixed at the lump sum of \$40,000.

“Iyer J.”