

COURT OF APPEAL FOR ONTARIO

CITATION: Master Tech Inc. v. Wajeb Assaf, 2024 ONCA 671

DATE: 20240911

DOCKET: M55054 (COA-24-OM-0068)

Pepall, Miller and Wilson JJ.A.

BETWEEN

Master Tech Inc. [Fariborz Tavana]

Plaintiff
(Appellant/Moving Party)

and

Wajeb Assaf and Klaiman Edmonds LLP

Defendants
(Respondents/Responding parties)

Fariborz Tavana, acting in person

Marc Kestenberg and Hunter Norwick, for the responding parties

Heard: September 6, 2024

REASONS FOR DECISION

[1] The moving party, Fariborz Tavana, (stated by him to be on behalf of Master Tech Inc.) seeks an order setting aside the March 21, 2024 order of Nordheimer J.A. dismissing the moving party's motion for an extension of time to file a notice of appeal from the February 15, and April 3, 2023 orders made by Chalmers J. against Master Tech Inc. The February 15, 2023 order compelled Master Tech to pay costs and the April 3, 2024 order dismissed the 2018 action.

There had been a consistent pattern of delay and non-payment of costs by the moving party.

[2] On May 29, 2023, Nishikawa J. dismissed the attempted appeal of the February 15, 2023 order pursuant to r. 2.1.01 on the basis that it was frivolous, vexatious and an abuse of process. No appeal has been taken from that order.

[3] There are three additional impediments to the moving party's motion before this court.

[4] First, Master Tech Inc. was dissolved as a corporation in 2020. Second, Mr. Tavana never obtained an order under r.15.01(2) permitting him to act for Master Tech Inc. despite being advised of this requirement on numerous occasions. Third, he failed to identify any reviewable error in the decision of Nordheimer J.A.

[5] Nordheimer J.A. identified the aforementioned problems but also addressed the factors to be considered when addressing a request for an extension of time. He fairly concluded that apart from having an intention to appeal within the relevant time, none of the other relevant factors were met. There was no explanation for the repeated delays in the proceedings and significantly, there was no apparent merit to the appeal. The appellant had not demonstrated any arguable error in the decision of Chalmers J.

[6] The motion is dismissed. The moving party is to pay costs of \$5,000 inclusive of disbursements and applicable tax to the respondents.

“S.E. Pepall J.A.”

“B.W. Miller J.A.”

“D.A. Wilson J.A.”