



## ENDORSEMENT / ORDER

CV-24-2378

\_\_\_\_\_  
Court File No.

### BETWEEN

BARRIE MUNICIPAL NOT-PROFIT HOUSING CORPORATION

Plaintiff(s)/Applicant(s)

- and -

LEAH DYCK

Defendants(s)/Respondent(s)

**BEFORE:** Justice V.V. Christie

**HELD BY:**  In person  Videoconference  Teleconference  In writing

**DATE:** November 5, 2024

**EVENT TYPE:** Motion, defamation - costs

### APPEARING:

Plaintiff(s)/Applicant(s): Barrie Municipal Not-Profit Housing Corporation Present

Representative: Riley Brooks - Email: Rbrooks@hgrgp.ca Present

Defendant(s)/Respondent(s): Leah Dyck - Email: leah.dyck@icloud.com Present

Representative: Present

**RELIEF REQUESTED:**

Per notice of motion/application  Per notice of appeal  Other (specify):

**DISPOSITION:**

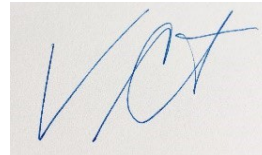
- Order to go in the form of consent / draft order submitted
  - Order to go as asked in paragraph(s) \_\_\_\_\_ of relief requested
  - Costs of \$ \_\_\_\_\_ on a \_\_\_\_\_ indemnity basis are payable by \_\_\_\_\_ to \_\_\_\_\_ by \_\_\_\_\_, 20\_\_.
  - Parties to provide submissions as to costs of no more than \_\_\_ pages by \_\_\_\_\_ 20\_\_.
  - Parties to attend before me to make oral submissions on costs on \_\_\_\_\_, 20\_\_.
  - Other (specify below):
- No formal order need be taken out.

**BRIEF REASONS (if any):**

1. On October 29, 2024, this court heard a motion brought by the Plaintiff seeking an interim / interlocutory injunction that the Defendant remove, and be restrained from publishing further, all posts which are false, misleading and/or defamatory; specifically posts alleging, expressly or impliedly, that the Plaintiff (or its employees) are criminals, are involved in criminal wrongdoing, are guilty of crimes, or otherwise any statements alleging criminality against the Plaintiff (or its employees). The motion was granted on October 30, 2024.
2. As for costs of this motion, the court strongly encouraged the parties to consult with each other and attempt to reach a reasonable agreement, failing which written submissions could be made. Both parties have now made written submissions.
3. In summary, the Plaintiff seeks substantial indemnity costs in the amount of \$8,691.11. The Defendant argues that she has no money to pay such costs and that the Plaintiff has never been reasonable.
4. Fixing costs is governed by s. 131(1) of the *Courts of Justice Act*. Rule 57.01 sets out factors to be considered when costs are fixed. The amount of costs awarded must reflect "an amount that is fair and reasonable for the unsuccessful party to pay in the particular proceeding, rather than an amount fixed by the actual costs incurred by the successful litigant": *Boucher v. Public Accountants (Council) for the Province of Ontario* (2004), 71 O.R. (3d) 291 (C.A.), at para. 26. Costs must be fair, reasonable, and proportionate. Elevated costs are only justified in two circumstances: 1) where explicitly authorized in Rule 49.10; 2) where the losing party has engaged in behaviour worthy of sanction - *Davies v. Clarington (Municipality)*, 2009 ONCA 722, para 28. Hard fought litigation is insufficient to justify an elevation in costs – *Davies*, para 45.
5. This court has considered all of the circumstances, including:
  - a. The Plaintiff was the successful party on this urgent motion in its entirety;
  - b. The issues in this litigation are relatively straightforward, factually and legally;
  - c. These issues are important to both parties. The Plaintiff is deeply concerned about its reputation given the Defendant’s widespread publishing of false information. The Defendant wishes to express her concerns about an organization that she feels her and others have been wronged by.
  - d. The Defendant is self-represented, having attempted unsuccessfully to get legal assistance from multiple lawyers.
  - e. The Defendant, seemingly, does not have the ability to pay.
  - f. The conduct of the parties. Immediately after the hearing of this motion, the Defendant posted on Facebook that counsel for the Plaintiff “lied to a judge” and that the Defendant would “rather go to jail than stop telling the public what they’re doing to thousands of their poorest tenants.” Upon receiving this court’s decision, the Defendant posted that the decision is a “perversion of justice”, that she is “obviously not going to remove anything”, and will not “pay any of the costs Barrie Housing incurred for lying to a judge for 35

minutes straight.” The Plaintiff attempted to resolve the issue of costs by making an offer to the Defendant which was met with a response that the Defendant would not be “paying any money”, accused the Plaintiff and Plaintiff’s counsel of “knowingly lying”, and that she was “not removing anything”. Subsequently, the Defendant has continued to post false claims about the Plaintiff, including that they are stealing from her, and has repeated her intention to ignore the court order. The Defendant even claims that this court ordered her to be quiet during the motion, while in reality, the Defendant was offered the same amount of time as the Plaintiff to make her submissions – which she chose to make in much less time than was allotted to her. The Defendant’s behaviour is worthy of sanction.

6. Having considered the totality of the circumstances, it is the view of this court that somewhat elevated costs are warranted, but not to the extent sought. It is the order of this court that the Defendant pay to the Plaintiff costs of this motion in the all-inclusive amount of \$7500.00, which is to be paid forthwith.



November 5, 2024

Date

Signature of Judicial Official