

Court of King's Bench of Alberta

Citation: Fodor v Concrete Experts Ltd, 2025 ABKB 151

Date: 20250312
Docket: 2401 05403
Registry: Calgary

Between:

Concrete Experts Ltd.

Appellant/Defendant

- and -

Barbara Fodor

Respondent/Plaintiff

**Ruling on Costs
of the
Honourable Justice R.A. Neufeld**

[1] In 2021, Barbara Fodor contracted with Concrete Experts Ltd to replace a garage pad and driveway at her residence. The work was done in the summer of 2021. Soon thereafter, Ms. Fodor noted significant cracking and heaving.

[2] After discussions with the company failed to result in agreement that, Ms. Fodor filed a civil claim in the Alberta Court of Justice seeking damages of \$21,165 plus interest and costs. The claim was defended in a trial was held before the honourable Justice Burt.

[3] In a written decision dated March 21, 2024 concrete experts was found liable breach of contract and damages were awarded in the amount of \$13,000 plus pretrial interest. Ms. Fodor was also awarded \$1300 in fees have and disbursements of \$2063.

[4] Concrete experts appealed the decision at trial. The appeal was argued on November 29, 2024 before me. I dismissed the appeal, with reasons delivered from the bench.

[5] The parties were advised that if they could not agree on costs within 30 days of the decision, that matter could be remitted to me for a decision based on written submissions not to exceed three pages in length. No agreement was reached and on January 6, 2025 a cost application was made on behalf of Ms. Fodor.

[6] Ms. Fodor costs of \$7750 in respect of the appeal and additional costs in respect of the trial pursuant to section 53 [1] [c] of the *Court of Justice Act*. She submits that for appeal costs items 7 (1) and 8(1)(a) are applicable, and these should be doubled due to an offer made on June 26, 2024 in which counsel offered to waive costs if the appeal was abandoned.

[7] Concrete Experts does not dispute that Ms. Fodor is entitled to its costs of the appeal under schedule C Column 1. It opposes any award of enhanced costs for any further costs in respect of the trial. It also argues that item 8(1)(a), which provides for costs in respect of written briefs where required has no application because written briefs are not required for appeals to this court from the Alberta Court of Justice, and even if it did apply, such an award would be made instead of an award under item 7 [1].

[8] As a general principle, costs are in the discretion of the court-both at trial and on appeal. Party and party costs are intended to partially indemnify a successful party for the expenses of litigation. Costs entitlement and reasonableness are dealt with in rule 10.32 and 10.2 and it is open to the court to make an award based on Schedule 2 or by other mechanisms such as a lump sum award or, where appropriate an award based on a proportion of reasonable legal fees following assessment by the court or an assessment officer.

[9] In determining costs for appeals from decisions made by the Court of Justice, it is important to recognize that such proceedings are intended to be cost effective and expeditious. This is important to the delivery of access to justice.

[10] In this case, both parties chose to be represented by counsel at trial and on appeal. From the perspective of the respondent, it is difficult to see how they could have been properly represented on the appeal without counsel and without the delivery of a brief for the benefit of the court. The same could be said for the appellant, especially since it's appeal was motivated, it appears, by a perceived need to overturn a decision that could have future impacts on its business model and standard form contracting.

[11] In the circumstances, and having regard to the success of Ms. Fodor at both trial and on appeal, I consider that a lump sum of cost for the appeal is appropriate, in the amount of \$3000 inclusive of disbursements and interest. Costs are to be paid forthwith.

Dated at the City of Calgary, Alberta this 12th day of March, 2025.

R.A. Neufeld
J.C.K.B.A.

Appearances:

C. Michael Smith
for the Appellant

Taylor Hudson
for the Respondent