

NOVA SCOTIA COURT OF APPEAL

Citation: *Buteau v. Maritime Permanent Roofing Ltd*, 2025 NSCA 23

Date: 20250321

Docket: CA 538521

Registry: Halifax

Between:

Allan Robert Buteau and Amy Lynn Buteau

Appellants

v.

Maritime Permanent Roofing Ltd, Interlock Roofing Ltd, Interlock Industries (Alberta) Ltd, I.E.L. Manufacturing Ltd, Interlock Group of Companies Ltd, Interlock Metal Roofing Systems Ltd also known as Interlock Lifetime Roofing Systems Ltd, and or any other Interlock trademark Company Involved in this matter, as well as Gilles Bourgeois, Carole Rundle, and Mark Wenzel (President)

Respondents

Judges: Farrar, Scanlan and Derrick, JJ.A.

Appeal Heard: March 19, 2025, in Halifax, Nova Scotia

Held: Appeal dismissed with costs of \$1,500.00 inclusive of disbursements payable in the cause, per order for judgment of Farrar, J.A.; Scanlan and Derrick, JJ.A. concurring

Counsel: Allan Robert Buteau and Amy Lynn Buteau, self-represented appellants

John Shanks and Erin McSorley, counsel for the respondents

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Respondents

ORDER FOR JUDGMENT

BEFORE: The Honourable Justice David P. S. Farrar

The Honourable Justice Edward (Ted) Scanlan

The Honourable Justice Anne S. Derrick

WHEREAS the appellants appealed from the decision of Justice Frank P. Hoskins (the judge) dated October 9, 2024 and his Order of November 13, 2024;

AND WHEREAS the judge granted the respondents' motion to file and have issued a Notice of Claim against Third Party, naming 3312739 Nova Scotia Limited as a third party to the action the appellants had commenced against the respondents;

AND WHEREAS the judge also ordered the appellants to pay costs to the respondents on that motion in an amount to be determined;

AND WHEREAS the appellants assert the judge erred in his legal analysis, made unreasonable findings, misinterpreted or misapprehended the evidence, exhibited a

reasonable apprehension of bias, and other errors as detailed in their factum filed in support of their application for leave to appeal and, if granted, their appeal;

AND WHEREAS the appellants also assert the judge's order for costs against them was made contrary to the rules of natural justice;

AND UPON the matters having come before this Court for oral argument on March 19, 2025;

AND UPON HEARING Allan Buteau and Amy Buteau on their own behalf, and John Shanks and Erin McSorley on behalf of the respondents;

AND WHEREAS the judge's granting the motion to add 3312739 Nova Scotia Limited as a third party is a discretionary decision on the part of the motion judge and this Court will only intervene where there is a clear error of law or a substantial injustice (*Aliant Inc. v. Ellph.com Solutions Inc.*, 2012 NSCA 89 at paras. 27 and 28);

AND UPON being satisfied the judge's decision respecting the addition of the third party was made applying correct legal principles;

AND UPON being satisfied the appellants have not met the onerous burden of establishing a reasonable apprehension of bias on the part of the judge (*R. v. Nevin*, 2024 NSCA 64 at paras. 47 – 52);

AND UPON being satisfied the trial judge did not err in principle nor was it manifestly unjust to award costs to the respondents who were successful on the motion (*MacVicar Estate v. MacDonald*, 2019 NSCA 90 at para. 22);¹

AND UPON the Panel being unanimously of the view the appellants have not established nor does the record support a conclusion that the judge erred in any manner in rendering his decision.

IT IS THEREFORE ORDERED THAT leave to appeal is granted but the appeal is dismissed.

¹ This finding is based on the respondent only seeking costs of \$750.00 on the motion below as indicated by counsel for the respondent at the appeal hearing.

IT IS FURTHER ORDERED THAT costs on the appeal are set at \$1,500.00 inclusive of disbursements and shall be payable in the cause – meaning if the appellants are successful in the action below, costs of this appeal will be paid to them; if they are unsuccessful in the action below, costs will be payable to the respondents. The appellants will be successful below if it is found that any amount is payable to them by the respondents or the third party.

ISSUED at Halifax, Nova Scotia, this 21st day of March, 2025.

Deputy Registrar