

CITATION: *Akman v. Sonnet Insurance Company*, 2025 ONSC 3924
COURT FILE NO.: DC-23-2833
DATE: 2025/07/02

**ONTARIO
SUPERIOR COURT OF JUSTICE
(DIVISIONAL COURT)**

B E T W E E N:)
)
RYAN AKMAN)
)
Plaintiff) Self-represented
(Respondent))
)
- and -)
)
)
SONNET INSURANCE COMPANY)
) Daniel Smith, for the Appellant
Defendant)
(Appellant))
) **HEARD:** June 30, 2025
) (By video conference)
)

2025 ONSC 3924 (CanLII)

ENDORSEMENT

CORTHORN J.

Introduction

[1] In March 2025, Sonnet Insurance Company (“Sonnet”) was successful on its appeal from a decision of a deputy judge of the Small Claims Court. The deputy judge (a) concluded that Sonnet had a duty to defend Ryan Akman, in his capacity as a landlord, in a Landlord and Tenant Board hearing, and (b) ordered that Sonnet pay Mr. Akman his costs of the Small Claims Court proceeding in the amount of \$1,600: *Akman v. Sonnet Insurance Company*, Ottawa , (10 November 2023), Court File No. SC-22-161083.

[2] In the Reasons for Decision on the appeal, this court (a) found that the deputy judge had erred in law; (b) granted the appeal; (c) set aside the decision of the deputy judge; (d) granted judgment in Sonnet’s favour; and (e) awarded Sonnet its costs, of the appeal and the decision below, in the amount of \$2,500: *Akman v. Sonnet Insurance Company*, 2025 ONSC 1824 (Div. Ct.).

[3] The parties were unable to agree upon the terms of the order to be issued and entered pursuant to the decision on the appeal. The parties were unable to do so because Mr. Akman took the position that, despite its success on the appeal, Sonnet was still required to pay him the costs of \$1,600 ordered at first instance.

The Issue

[4] The sole issue to be determined is whether the order as to costs made by the deputy judge of the Small Claims Court survives the outcome on the appeal.

Disposition

[5] For the reasons that follow, the order as to costs made at first instance does not survive the outcome on the appeal. At this stage of the proceeding, the only costs payable are those ordered by this court.

Analysis

[6] In the circumstances of this appeal, the general principle to be applied is that “when an appeal is allowed [...] the order as to costs below is set aside and the costs below and of the appeal are awarded to the successful appellant”: see *St. Jean v. Cheung*, 2009 ONCA 9, at para. 4, citing *Hunt v. TD Securities Inc.* (2003), 43 C.P.C. (5th) 211 (ON CA), at para. 2.

[7] Another general principle to be applied is that where the disposition on the appeal is different from the outcome on the decision under appeal, leave to appeal costs is not necessary: *St. Jean*, at para. 4, citing *Dines v. Harvey A. Helliwell Investments Ltd.*, [1992] O.J. No. 2107 (C.A.).

[8] Mr. Akman’s position is that, because the costs awarded at first instance were less than \$3,500, Sonnet was prohibited from appealing the costs award. In support of that position, Mr. Akman relies on s. 2 of O. Reg. 626/00 titled, “*Small Claims Court Jurisdiction and Appeal Limit*”. Pursuant to that regulatory provision, there can be no appeal from an award, made in the Small Claims Court, that falls below \$3,500. That provision applies to costs orders: *Riddell v. Carefree Moving Inc.*, 2018 ONSC 1972 (Div. Ct.).

[9] If Mr. Akman’s position were to prevail in the circumstances before this court, the costs awarded at first instance would effectively be set off against the costs awarded on the appeal. Mr. Akman would be required to pay Sonnet a total of \$900 (\$2,500 - \$1,600).

[10] Such an outcome makes no practical sense and is not in the interest of justice. The fact that Sonnet was not permitted to appeal the order as to costs at first instance does not mean that the order as to costs stands regardless of the outcome on the appeal. The general principles summarized in paras. 6 and 7, above, prevail over the regulatory provision upon which Mr. Akman relies.

Summary

[11] Sonnet was entirely successful on the only issue determined on the appeal before this court. The decision of the deputy judge of the Small Claims Court, including the order as to costs, is set aside. There shall be no costs of the appearance before this court on June 30, 2025.

Madam Justice Sylvia Corthorn

Released: July 2, 2025

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B E T W E E N:

RYAN AKMAN

Plaintiff
(Respondent)

– and –

SONNET INSURANCE COMPANY

Defendant
(Appellant)

ENDORSEMENT

Madam Justice Sylvia Corthorn

Released: July 2, 2025