

SUPREME COURT OF NOVA SCOTIA

Citation: *Singapore Technologies Marine Ltd. v. Nova Scotia (Attorney General)*,
2025 NSSC 256

Date: 20250730

Docket: Hfx. No. 469322

Registry: Halifax

Between:

Singapore Technologies Marine Ltd.

Plaintiff

v.

The Attorney General of Nova Scotia Representing His Majesty the King
in Right of the Province of Nova Scotia

Defendant

Decision - Costs

Judge: The Honourable Justice Darlene Jamieson

Final Written Decision: July 30, 2025

Counsel: Mr. Robert Mroz, Mr. Daniel Watt and Mr. Noah
Entwisle, for the Plaintiff
Ms. Caitlin Menczel O'Neill for the Defendant

By the Court:**Background**

[1] On April 17, 2025, this court released its decision in this matter (reported as *Singapore Technologies Marine Ltd. v. Attorney General (Nova Scotia)* 2025 NSSC 140). Following a trial over four days, the Defendant was successful. As the successful party, the Defendant is entitled to costs. The parties were unsuccessful in resolving the issue of costs following the trial. As a result, I received written submissions from each party. The following is my decision on costs.

Parties' Positions

[2] Disbursements are not in issue. The Defendant claims disbursements of \$4,774, including HST. The Plaintiff does not take issue with this being an appropriate amount to be ordered for the Plaintiff's disbursements.

[3] The disagreement between the parties concerns whether Scale 2 (the Basic Scale) or Scale 1 of Tariff "A," found in *Civil Procedure Rule 77*, should apply.

[4] The Defendant says they should recover costs on the basis of Tariff "A", Basic Scale 2 for a total of \$121,865.71. It also claims \$2,000 per full day of trial for three days being a total of \$6,000 (given there were several half days of trial during the four day period). The Plaintiff's calculation chart in its brief claims three days of trial at \$2,000 per day, but has erroneously included a total of \$3,000 in their calculation. Later at paragraph 24 they reference the amount for three days as being \$6,000. At the end of the brief, it again sets out the total amount that it claims in costs and disbursements as \$129,639.71. However, it is clear there was an error in adding the various amounts claimed. The Plaintiff erroneously calculated the total amount as \$129, 639.71 rather than the actual total of their claim being \$132,639.71 (Basic Scale 2 at \$121,865.71, plus three days at \$2,000 (\$6,000) plus disbursements of \$4,774).

[5] The Plaintiff says the Defendant should receive Scale 1 of Tariff "A", which is a 25% reduction of the Basic Scale or \$91,399.29. It further says \$2,000 per day of trial over four days should be applied for a total of \$8,000. As noted, the Plaintiff does not take issue with the amount of the disbursements claimed.

[6] The Plaintiff says there are four factors that warrant applying the reduced Scale 1:

1. The matter was legally, factually and procedurally straightforward;
2. At least one quarter of the scheduled trial time was unused;
3. The sole issue was monetary, with no non-monetary issues of importance to the parties, court or public; and
4. Unnecessary time and effort was consumed addressing a defence raised by the Province for the first time in closing.

The Law

[7] *Civil Procedure Rule 77* governs costs following trial. The relevant portions state:

77.01 Scope of Rule 77

- (1) The court deals with each of the following kinds of costs:
 - (a) party and party costs, by which one party compensates another party for part of the compensated party's expenses of litigation;
 - ...
- (2) Costs may be ordered, the amount of costs may be assessed, and counsel's fees and disbursements may be charged, in accordance with this Rule.

77.02 General discretion (party and party costs)

- (1) A presiding judge may, at any time, make any order about costs as the judge is satisfied will do justice between the parties.
- (2) Nothing in these Rules limits the general discretion of a judge to make any order about costs, except costs that are awarded after acceptance of a formal offer to settle under Rule 10.05, of Rule 10 - Settlement.

...

77.06 Assessment of costs under tariff at end of proceeding

- (1) Party and party costs of a proceeding must, unless a judge orders otherwise, be fixed by the judge in accordance with tariffs of costs and fees determined under the Costs and Fees Act, a copy of which is reproduced at the end of this Rule 77.

...

77.07 Increasing or decreasing tariff amount

- (1) A judge who fixes costs may add an amount to, or subtract an amount from, tariff costs.
- (2) The following are examples of factors that may be relevant on a request that tariff costs be increased or decreased after the trial of an action, or hearing of an application:
- (a) the amount claimed in relation to the amount recovered;
 - (b) a written offer of settlement, whether made formally under Rule 10 - Settlement or otherwise, that is not accepted;
 - (c) an offer of contribution;
 - (d) a payment into court;
 - (e) conduct of a party affecting the speed or expense of the proceeding;
 - (f) a step in the proceeding that is taken improperly, abusively, through excessive caution, by neglect or mistake, or unnecessarily;
 - (g) a step in the proceeding a party was required to take because the other party unreasonably withheld consent;
 - (h) a failure to admit something that should have been admitted.

[8] The tariffs state:

TARIFFS OF COSTS AND FEES DETERMINED BY THE COSTS AND FEES COMMITTEE TO BE USED IN DETERMINING PARTY AND PARTY COSTS

In these Tariffs unless otherwise prescribed, the “amount involved” shall be

- (a) where the main issue is a monetary claim which is allowed in whole or in part, an amount determined having regard to
 - (i) the amount allowed,
 - (ii) the complexity of the proceeding, and
 - (iii) the importance of the issues;

(b) where the main issue is a monetary claim which is dismissed, an amount determined having regard to

- (i) the amount of damages provisionally assessed by the court, if any,
- (ii) the amount claimed, if any,
- (iii) the complexity of the proceeding, and
- (iv) the importance of the issues;

...

TARIFF A

Tariff of Fees for Solicitor's Services Allowable to a Party Entitled to Costs on a Decision or Order in a Proceeding

In applying this Schedule the “length of trial” is to be fixed by a Trial Judge.

The length of trial is an additional factor to be included in calculating costs under this Tariff and therefore two thousand dollars (\$2,000) shall be added to the amount calculated under this tariff for each day of trial as determined by the trial judge

Amount Involved	Scale 1 (-25%)	Scale 2 (Basic)	Scale 3 (+25%)
Less than \$25,000	\$ 3,000	\$ 4,000	\$ 5,000
\$25,000-\$40,000	4,688	6,250	7,813
\$40,001-\$65,000	5,138	7,250	9,063
\$65,001-\$90,000	7,313	9,750	12,188
\$90,001-\$125,000	9,188	12,250	15,313
\$125,001-\$200,000	12,563	16,750	20,938
\$200,001-\$300,000	17,063	22,750	28,438
\$300,001-\$500,000	26,063	34,750	43,438
\$500,001-\$750,000	37,313	49,750	63,188
\$750,001-\$1,000,000	48,563	64,750	80,938
more than \$1,000,000	The Basic Scale is derived by multiplying the “amount involved: by 6.5%.		

[9] The Nova Scotia Court of Appeal in *Armoyan v. Armoyan*, 2013 NSCA 136 said that awarding party and party costs pursuant to the tariffs is the norm. The Court of Appeal further said that it is a basic costs principle that a successful party should recoup a substantial contribution to their reasonable fees and expenses. Justice Hunt

in *Grue v. McLellan*, 2018 NSSC 151 succinctly summarized the principles arising from the *Armoyan, supra* decision as follows:

- 6 In *Armoyan v. Armoyan*, 2013 NSCA 136 (N.S. C.A.), the Nova Scotia Court of Appeal provided direction with respect to the principles to be considered when determining costs. Specifically, Justice Fichaud stated:
 1. The court's overall mandate is to do "justice between the parties": para. 10;
 2. Unless otherwise ordered, costs are quantified according to the tariffs; however, the court has discretion to raise or lower the tariff costs applying factors such as those listed in Rule 77.07(2). These factors include an unaccepted written settlement offer, whether the offer was made formally under Rule 10, and the parties' conduct that affected the speed or expense of the proceeding: paras. 12 and 13;
 3. The Rule permits the court to award lump sum costs and depart from tariff costs in specified circumstances. Tariffs are the norm and there must be a reason to consider a lump sum: paras. 14-15;
 4. The basic principle is that a costs award should afford a substantial contribution to, but not amount to a complete indemnity to the party's reasonable fees and expenses: para. 16;
 5. The tariffs deliver the benefit of predictability by limiting the use of subjective discretion: para. 17;
 6. Some cases bear no resemblance to the tariffs' assumptions. For example, a proceeding begun nominally as a chambers motion, signaling Tariff C, may assume trial functions; a case may have "no amount involved" with other important issues at stake, the case may assume a complexity with a corresponding work load, that is far disproportionate to the court time by which costs are assessed under the tariffs, etc.: paras. 17 and 18; and
 7. When the subjectivity of applying the tariffs exceeds a critical level, the tariffs may be more distracting than useful. In such cases, it is more realistic to circumvent the tariffs, and channel that discretion directly to the principled calculation of a lump sum which should turn on the objective criteria that are accepted by the Rules or case law: para. 18.

[10] There is no dispute between the parties that the amount involved is \$1,874,857.15, being the amount claimed by the Plaintiff. The only dispute is whether Scale 1 or 2 applies.

[11] The Basic Scale 2 is the starting point for determining costs and, in my view, there must be sufficient reason to depart from this scale. I do not see any reason in the current circumstances to justify a departure from application of the Basic Scale.

[12] I am of the view that the Basic Scale is just that, intended for matters that proceed in the normal course. The action here proceeded in the normal manner. While the matter took eight years to come to trial, there is no evidence that either party unduly delayed the matter. The action was started in 2017 and the trial took place in March of 2025. There was one motion for production that was resolved and did not proceed to a hearing. While the claim was for almost \$2 million, it was not unusually complex, nor was it simple. The matter involved an evolving agreement with a significant factual matrix or surrounding circumstances to the parties contracting history.

[13] While the issues were fairly standard involving contractual interpretation, the claim of almost \$2 million was obviously important to both parties. For example, as the Province pointed out, it is the steward of the public purse. There were no non-monetary issues of importance in dispute.

[14] With respect to the conduct of the parties, there was a late and un-pleaded defence raised by the Defendant during oral submissions. It was agreed that written submissions would follow the trial, solely with respect to this narrow issue. Before the submissions were due, and approximately one week after the trial concluded, the Defendant withdrew the defence. I am of the view that while this did occupy time and effort for the Plaintiff, it does not justify a 25% reduction from Scale 2 to 1. However, I am of the view that a reduction of \$5,000 is appropriate and I exercise my discretion under Rule 77 to do so. I am satisfied that Basic Scale 2, minus \$5,000 for the time and effort required to address the new defence raised during oral submissions, will do justice between the parties.

[15] The trial was scheduled for four days but was heard in just under three days. Therefore, an additional \$2,000 per day of trial is appropriate being \$6,000.

[16] The total costs award to the Defendant under Basic Scale 2 is \$121,865.71 minus \$5,000 equalling \$116,865.71. In addition, I award \$2,000 per day for 3 days (\$6,000). Added to this are the disbursements of \$4,774, that are not in dispute. The total of the costs and disbursements awarded to the Defendant is \$127,639.71.

Conclusion

[17] The Defendant is awarded \$127,639.71 in costs and disbursements. I ask that the Defendant prepare a costs order reflecting the above.

Jamieson, J.

