

ONTARIO

SUPERIOR COURT OF JUSTICE

BETWEEN:)
)
Shattered Window Productions Ltd.)
) Daria Bona, for the plaintiff
Plaintiff)
)
– and –)
)
RT7 Inc.) No one appearing for the defendant
)
Defendant)
)
)
)
)
) **HEARD:** September 23, 2025

2025 ONSC 5425 (CanLII)

ROBERT CENTA J.

[1] The plaintiff, Shattered Window Productions Ltd., commenced this action against the defendant, RT7 Inc., for unpaid invoices. For the reasons that follow, I grant judgment in favour of Shattered Window, in the amount of \$85,952.96 as damages for breach of contract, plus prejudgment interest, plus costs.

A. *The trial should proceed in the absence of RT7*

[2] RT7 did not attend trial and, for the reasons that follow, I ordered that the trial should proceed in its absence.

1. RT7 did not participate meaningfully in the five pre-trial conferences

[3] The court provided five pre-trial conferences for the parties. RT7’s failure to participate meaningfully in any of the pre-trial conferences rendered them essentially useless.

[4] RT7’s representative did not attend the first pre-trial conference on May 6, 2024, apparently due to a death in his family.

[5] RT7’s representative did not attend the second pre-trial conference on June 10, 2024, apparently because the representative had to undergo emergency surgery.

- [6] The third pretrial conference, held on November 26, 2024, was adjourned to permit RT7 to provide documents relevant to its ability to pay any damages award, which it had not previously provided.
- [7] RT7's representative did not attend the fourth pre-trial conference held on March 31, 2025. This time, RT7 apparently offered no explanation for failing to attend.
- [8] The fifth pre-trial conference, held on April 30, 2025, was adjourned because RT7 had still not produced the documents that were to be produced following the November 26, 2024 pre-trial conference.
- [9] RT7 demonstrated an enduring unwillingness to participate meaningfully in the pre-trial process. To put it bluntly, RT7 wasted the valuable time of Shattered Window and the court.

2. RT7 did not comply with the court ordered timetable

- [10] On May 6, 2024, the action was set down for a two-day, simplified procedure trial to be held on September 22, 2025. A timetable for the exchange of trial evidence was set and subsequently amended on March 31, 2025, to provide as follows”
- a. Plaintiff's trial affidavits to be delivered on or before June 13, 2025;
 - b. Defendant's trial affidavits to be delivered on or before July 2, 2025;
 - c. Reply affidavits (if any) to be delivered on or before July 20, 2025; and
 - d. Joint book of documents to be delivered on or before May 30, 2025.
- [11] Counsel for Shattered Window confirmed that RT7 did not deliver any trial affidavits. RT7 failed to comply with the court ordered timetable.
- [12] Counsel for RT7 did not attend trial. Even after waiting the extra 15 minutes required by rule 3.03 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg 194, no representatives for RT7 appeared. In the circumstances, and given RT7's demonstrated indifference to the court process, I ordered that the trial would proceed in the absence of RT7.

B. Shattered Window is entitled to damages for breach of contract

- [13] Shattered Window relied on the affidavit of its director, Bryan Belanger-Diaz. The evidence of Mr. Belanger-Diaz stands unchallenged. Shattered Window provided production services to RT7 in relation to a series of projects, including a series of short films for the Ontario Real Estate Association. Shattered Window's duties included creating a budget, casting actors, hiring crew members, supervising cast and crew members during filming, and acting as director and production manger.

- [14] Shattered Window invoiced RT7 regularly, but RT7 fell behind in its payments to Shattered Window as well as the crew members. Although the parties attempted to resolve the dispute over the unpaid invoices, RT7 did not follow through on any of its overtures.
- [15] Between November 11, 2015, and February 9, 2018, Shattered Window issued 25 invoices to RT7 in the total amount of \$177,578.50. Shattered Window acknowledges receiving payment from RT7 in the total amount of \$91,625.54, leaving an unpaid balance of \$85,952.96. RT7 did not challenge the invoices or the propriety of any of the charges that appeared on them.
- [16] I find that RT7 breached its contract with Shattered Window by failing to pay the invoices in full when they were rendered. Shattered Window is entitled to judgment in the amount of \$85,952.96 as damages for breach of contract, plus prejudgment interest running from February 9, 2018, to the date of judgment.

C. *Shattered Window is not entitled to aggravated damages*

- [17] Shattered Window seeks \$100,000 in aggravated damages. I decline to award Shattered Window aggravated damages.
- [18] Contract damages for intangible harm may be awarded under the principles established in *Hadley v. Baxendale* (1854), 156 E.R. 145, where they are reasonably foreseeable. Damages for breach of contract are meant to compensate the victim of the breach by reference to what was in the reasonable contemplation of the parties at the time the contract was made: *Fidler v. Sun Life Assurance Co. of Canada*, [2006] 2 S.C.R. 3, at paras. 44-45; *Tim Ludwig Professional Corporation v. BDO Canada LLP*, 2017 ONCA 292, 137 O.R. (3d) 570, at para 60. There is no evidence before me to prove that any intangible harm was within the reasonable contemplation of the parties at the time they entered into the contract.
- [19] Similarly, I do not think Shattered Window has proved an entitlement to “true aggravated damages.” In *Fidler*, at para. 52, the Supreme Court explained the difference between contract damages for intangible harm and damages for intangible harm arising out of circumstances that aggravate the breach of contract as follows:

[These damages] are not awarded under the general principle of *Hadley v. Baxendale*, but rest on a separate cause of action -- usually in tort -- like defamation, oppression or fraud. The idea that damages for mental distress for breach of contract may be awarded where an object of a contract was to secure a particular psychological benefit has no effect on the availability of such damages. If a plaintiff can establish mental distress as a result of the breach of an independent cause of action, then he or she may be able to recover accordingly. The award of damages in such a case arises from the separate cause of action. It does not arise out of the contractual breach itself, and it has nothing to do with contractual damages under the rule in *Hadley v. Baxendale*.

- [20] The only evidence before me in support of the claim for aggravated damages is the following paragraph from the affidavit of Mr. Belanger-Diaz:

RT7's non-payment and breach of contract not only caused me to incur significant debt, from which I am still recovering today, but it also impacted my health and well-being, my interpersonal relationships and my quality of life.

- [21] In my view, this is not an appropriate case for aggravated damages. First, the plaintiff in this action is Shattered Window, not Mr. Belanger-Diaz. Shattered Window did not present me with any authority for the proposition that the corporate plaintiff could recover aggravated damages for mental distress suffered by its director and shareholder. Second, even if I overlook that problem, Mr. Belanger-Diaz has not presented sufficiently clear and cogent evidence of mental distress to establish his entitlement to aggravated damages on a balance of probabilities.

D. Additional relief

- [22] Shattered Window also requested that I make an order under 45.01 requiring RT7 to pay proceeds of a pending sale of assets into court. I decline to do so for several reasons.

- [23] First, I am not satisfied that Shattered Window put RT7 on notice that it intended to seek this relief. RT7, uninterested as it appears to be, should have been given proper notice of this request for relief. Second, rule 45.01 permits the court to make an “interim order for the custody of or preservation of property.” However, today I heard the trial of this action and have rendered a final judgment. I am not satisfied that rule 45.01 permits me to make an “interim order” after granting final judgment. Third, no sworn evidence was presented regarding the nature of the transaction, its terms, and whether it was designed to defeat creditors. I would be reluctant to impose terms on a sale about which I know very little. It is certainly possible that there may be secured creditors or other creditors who are entitled to a priority distribution of the proceeds of sale. I do not think it is appropriate in these circumstances to grant the relief sought by Shattered Window. That said, Shattered Window has a range of options available to it to collect on this judgment and nothing in these reasons is intended to prevent Shattered Window from attempting to execute on this judgment.

E. Costs

- [24] Fixing costs is a discretionary decision under s. 131 of the *Courts of Justice Act*, R.S.O. 1990, c C.43. In exercising my discretion, I may consider the result in the proceeding, any offer to settle or to contribute made in writing, and the factors listed in rule 57.01 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg 194. These factors include but are not limited to: (i) the result in the proceeding; (ii) the experience of the lawyer for the party entitled to the costs as well as the rates charged and the hours spent by that lawyer; (iii) the amount of costs that an unsuccessful party could reasonably expect to pay in relation to the step in the proceeding for which costs are being fixed; (iv) the amount claimed and the amount

recovered in the proceeding; (v) the complexity of the proceeding; (vi) the importance of the issues; and (vii) the conduct of any party that tended to shorten or lengthen unnecessarily the duration of the proceeding. Rule 57.01(1)(f) provides that the court may also consider “any other matter relevant to the question of costs.”

- [25] In exercising my discretion to fix costs, I must consider what is fair and reasonable for the unsuccessful party to pay in this proceeding and balance the compensation of the successful party with the goal of fostering access to justice: *Boucher v Public Accountants Council (Ontario)* (2004), 71 O.R. (3d) 291 (C.A.) at paras. 26 and 37.
- [26] On June 1, 2024, Shattered Window made a Rule 49 offer to settle this action for \$85,000 plus costs. Shattered Window beat that offer at trial. For that reason, Shattered Window seeks a costs order of \$19,035.18, representing legal fees on a partial indemnity basis up to the date of the offer, legal fees on a substantial indemnity offer after the date of the offer, HST, and disbursements.
- [27] I am satisfied that Shattered Window is entitled to costs on the blended scale that it seeks. The hourly rates charged, and the time spent by counsel for Shattered Window are very reasonable. Shattered Window achieved complete success. I am satisfied that it is fair and reasonable to require RT7 to pay \$19,035.18 to Shattered Window as costs of the action.
- [28] For these reasons, I fix the costs of the action at \$19,035.18 inclusive of disbursements and Harmonized Sales Tax, and order RT7 to pay that amount to Shattered Window.
- [29] Counsel for Shattered Window may deliver a draft judgment to my judicial assistant for my review and signature without the need to obtain the consent of RT7 as to its form and content.

Robert Centa J.

Released: September 23, 2025

CITATION: Shattered Window Productions Ltd. v. RT7 Inc., 2025 ONSC 5425
COURT FILE NO.: CV-20-00648518-0000
DATE: 20250923

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SUPERIOR COURT OF JUSTICE

BETWEEN:

Shattered Window Productions Ltd.

Plaintiff

– and –

RT7 Inc.

Defendant

REASONS FOR JUDGMENT

Robert Centa J.

Released: September 23, 2025