

COURT OF APPEAL FOR ONTARIO

CITATION: R & P Petroleum Inc. v. Eternal Vibes Inc. (Phoenix Fuel), 2025
ONCA 833
DATE: 20251201
DOCKET: M56462 (COA-25-CV-0527)

Paciocco J.A. (Motion Judge)

BETWEEN

R & P Petroleum Inc.

Plaintiff
(Respondent/Moving Party)

and

Eternal Vibes Inc. Carrying on Business as Phoenix Fuel, and Ishvinder Singh
Virk

Defendants
(Respondents/Responding Parties)

Danny Bellin, for the moving party

Sukhminder Singh, for the responding parties

Heard: November 28, 2025

REASONS FOR DECISION

[1] The moving party, R & P Petroleum Inc., obtained an order for security for costs against the responding parties, Eternal Vibes Inc. and Ishvinder Singh Virk, in this action. The order, made on September 16, 2025, required a deposit of \$100,000 to be paid into court within 60 days. R & P Petroleum seeks an order

pursuant to r. 61.06(2) of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, dismissing the action for non-payment of the required deposit within the requisite timeline.

[2] A single judge may make such an order if the party seeking dismissal establishes that the security for costs order has not been complied with, and the party subject to the order has not discharged their onus of showing a compelling reason for why the order should not be made: *One Clarendon Inc. v. Finlay*, 2024 ONCA 414, at para. 21.

[3] I am satisfied that the payment deadline has passed, without the ordered payment being made. The responding parties did not respond to timely requests made by the moving party for confirmation that the deposit would be paid. This motion for an order dismissing the action was served on the responding parties. Mr. Singh, who had been representing the responding parties and is still on record as counsel, attended and notified the court that he did not have instructions from his clients, despite efforts to obtain them. Therefore, no one appeared to oppose the motion to dismiss the underlying action. It is in the interests of justice to make the order in this case.

[4] The appeal bearing court file number COA-25-CV-0527 is dismissed.

[5] Combined costs for this motion and the appeal are payable by Eternal Vibes Inc. and Ishvinder Virk to R & P Petroleum in the amount requested of \$6,000 inclusive of applicable taxes and disbursements.

“David M. Paciocco J.A.”