

SUPERIOR COURT OF JUSTICE – ONTARIO

DIVISIONAL COURT

RE: Alan Brooks and Marie C. Boucher, Appellants

-and-

Hogan’s Haven Family Campground and Archie Hogan, Respondents

BEFORE: Justice A. Doyle

COUNSEL: Self-Represented Appellants

Chris E. J. Ecclestone for the Respondents

HEARD: In writing

COSTS ENDORSEMENT

[1] The Court dismissed the appellants’, Alan Brooks and Marie C. Boucher, appeal of an order of the Landlord and Tenant Board (“Board”) declaring that the *Residential Tenancies Act, 2006*, S.O. 2006, c.17, did not apply to the appellants’ occupation of their cottage at the property of the respondents, Hogan’s Haven Family Campground and Archie Hogan.

[2] The court found that the Board did not err in law in finding the parties’ agreement is a seasonal lease and that, by virtue of s. 5(a), the *Act* does not apply.

[3] Upon reviewing the parties’ costs submissions and bills of costs, the *Rules of Civil Procedure* and Rule 57, the court awards the respondents the costs of \$5000.00 (inclusive of disbursements and HST).

Respondents’ Position

[4] The respondents claim costs on a substantial indemnity basis in the amount of \$8308.89 as they argue that the appellants have conducted themselves improperly.

[5] The respondents rely on Rule 57.01(g) in its request for costs on a substantial indemnity basis, i.e. the appellants' refusal to admit anything which should have been admitted.

[6] The respondents argue that the appeal never had any merit and refusal to accept that the lease was seasonal as found by the Board, Justice Maranger and this court.

[7] Despite this, the appellants moved for a stay of the tribunal's order which resulted in more costs incurred by the respondents.

[8] They disagree with the appellants' position that they lost their cottage as there is evidence that they sold it.

[9] The appellants' offer to settle the matter was not acceptable and was unrealistic.

Appellant's Position

[10] The appellants submit that they made a good faith offer to resolve costs of \$5000 payable to the respondents and a previous offer to settle the matter.

[11] The respondents are not entitled to full indemnity costs as the appellants had a statutory right of appeal pursuant to the Act.

[12] Justice Maranger had opined that the appellants' appeal lacked merit but did not order costs.

[13] In the alternative, the appellants submit that they are entitled to costs given the exceptional circumstances including:

- The respondents provoked this action by refusing to enforce their own park rules;
- The appellants attempted to settle this matter;
- The respondents took the law in their own hands by returning their rent payments and issuing a notice of eviction on the basis of non-payment'
- Made a false claim of trespass to the police; and
- Disconnected the appellants vital services making their cottage inhabitable.

[14] In the further alternative, in the event that the court awards costs, the appellants submit:

- Costs should be based on a partial indemnity basis; and
- Should be stayed pending a possible request for leave to appeal.

[15] The appellants devoted approximately 380 hours in preparation.

Discussion

[16] Costs are to be determined in accordance with s. 131 of the *Courts of Justice Act*, R.S.O. 1990, c. C. 43. In determining costs, the court has considered the factors set out in r. 57.01(1) of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194.

[17] Pursuant to r. 57.01(7), the court is directed to devise and adopt the simplest, least expensive and most expeditious process for fixing costs.

[18] As stated in *Boucher v. Public Accountants Council for the Province of Ontario* (2004), 71 O.R. (3d) 291 (C.A.), in determining costs, the court can compare the defendants' fees to those of the plaintiffs when considering the reasonable expectations criteria. The court must exercise its discretion in awarding costs that are fair and reasonable.

[19] The determination of costs is meant to be a simple and straightforward exercise that does not require the court to complete mathematical formulas.

[20] First, costs should be fixed at this stage.

[21] The best route is to fix costs in favour of the respondents, the successful party in this appeal regardless of the result of any proposed leave to appeal.

[22] The presumption is in favour of awarding costs on partial indemnity basis absent exceptional circumstances. In this case, I do not find exceptional circumstances exist here by the mere fact that the appellants pursued their rights.

[23] In reviewing the respondents' bill of costs filed in Case Center, the court notes:

- The respondents' counsel has a reduced rate which is reasonable taking into consideration their years at the Bar and their experience; and
- The costs incurred are reasonable given the issues at stake.

[24] I note that the appellants made an effort to agree with costs by forwarding an offer to settle.

[25] After weighing the factors in subrule 57.01(1), the principles in case law, and my considerations outlined above, I find that it is fair and reasonable to order costs in the amount of \$5000 to be paid by the appellants.

Justice A. Doyle

Date: March 26 , 2026

CITATION: *Brooks v. Hogan*, 2026 ONSC 1833
DIVISIONAL COURT FILE NO.: DC-25-00003064-0000
DATE: 2026/03/26

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DOYLE J.

Released: March 26, 2026