

CITATION: Aviva Insurance Company of Canada v. Mohammed Rawra et al.,
2026 ONSC 2539
COURT FILE NO.: CV-25-00739175-0000
DATE: 20260428

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:)
)
Aviva Insurance Company of Canada)
) *Denise Bambrough, Mark A. Borgo, for the*
Plaintiff) Plaintiff
)
– and –)
)
Mohammed Rawra, Nausheen Rafiq and) Not appearing
Sajid Rehmatullah)
)
Defendant)
)
)
)
)
) **HEARD:** April 28, 2026

DES ROSIERS J.

Overview

- [1] The plaintiff, Aviva Insurance Company of Canada (“Aviva”) is claiming reimbursement from the defendants pursuant to an Indemnity Agreement.
- [2] In January 2017, the defendants executed an Indemnity and Security Agreement (“the Indemnity Agreement”) in favour of Aviva. The Indemnity Agreement provides that the defendants are jointly and severally liable for all obligations arising out of the Indemnity Agreement (par. 10). The Indemnity Agreement further provides that the Defendants will indemnify Aviva in full for any loss or damages arising out of any Bond provided by Aviva (par. 14).
- [3] The Indemnity Agreement also provides that Aviva has discretion to make payments pursuant to any Bond (par.21). Finally, the Indemnity Agreement provides that all sums payable to Aviva under the Indemnity Agreement bear interest at a rate of 18% per year.
- [4] Aviva is licensed to carry on business as a surety in the Province of Ontario.

- [5] The Defendants Mohammed Rawra and Sahid Rehmatullah were the officers and directors of Nascent (Tisdale) Inc. (“Nascent”). The Defendant Nausheen Rafiq is the spouse of Mohammed Rawra.
- [6] Aviva executed and delivered a Tarion Warrant Corporation Bond to Nascent.
- [7] On March 31, 2021, Grant Thornton limited was appointed as receiver of all assets, undertakings and properties of Nascent.
- [8] In November 2023, Aviva received a demand under the Bond from Tarion in the amount of \$701, 700. After investigation, Aviva paid Tarion the sum of \$690,000.
- [9] Aviva incurred investigation, consulting and legal expenses in the amount of \$194, 570.67 in connection with the payment under the Bond.
- [10] Aviva is seeking indemnification from the Defendants in the amount of \$884,570.67 (\$690,000 + \$194, 570.67).
- [11] Aviva is also claiming pre-judgment interest of 18% from the 30th day after the date of issue of its Statement of Claim of March 17, 2025. As of December 18, 2025, Aviva has calculated that the pre-judgment interest amounted to \$106,875.52. This is the amount of pre-judgement interest that it is claiming.
- [12] The defendants were noted in default on April 17, 2025 (Rehmatullah) and September 24, 20025 (Rawra and Rafiq). Pursuant to Justice Koehnen’s Order of January 7, 2026, the motion for default judgement as well as the draft judgment and the Order of Justice Koehnen were served on the defendants on January 8, 2026. The defendants have not indicated that they wish to defend or set aside their default.

Decision

- [13] For the reasons that follow I am granting the judgment as sought in the amount of \$991,446.19.

The Issues

- [14] The main issues are:

- Issue 1: Do the materials provide a basis for a finding of liability?
- Issue 2: If so, what are the damages to which the plaintiff is entitled?

Analysis

Issue 1: Do the materials provide a basis for a finding of liability?

Consequences of noting in default

- [15] Pursuant to r.19.02 of the *Rules of Civil Procedure*, having not defended the proceeding, a defendant is deemed to admit the truth of all allegations of fact made in the Statement of Claim.
- [16] However, pursuant to r.19.06, a plaintiff is not entitled to judgment on a motion for judgment or at a trial merely because the facts alleged in the statement of claim are deemed to be admitted, unless the facts entitle the plaintiff to judgment.
- [17] In particular, r.19.05 provides that a motion for judgment which involves unliquidated damages shall be supported by evidence given by affidavit.

The test on a motion for default judgment

- [18] The test on a motion for default judgement was set out in *Elekta Ltd. v. Rodkin*, 2012 CarswellOnt 2928 (ONSC) as follows:
- A. What deemed admissions of fact flow from the facts pleaded in the Statement of Claim?
 - B. Do those deemed admissions of fact entitle the plaintiff, as a matter of law, to judgement on the claim?
 - C. If they do not, has the plaintiff adduced admissible evidence which, when combined with the deemed admissions, entitle it to judgement on the pleaded claim?
- [19] I am satisfied that the plaintiff has established liability based upon the following deemed admissions in the Statement of Claim, and the affidavit of Darren O’Sullivan sworn December 18, 2025.

Issue 2: What are the damages to which the plaintiff is entitled?

- [20] Aviva is entitled to indemnification pursuant to the Indemnity Agreement. Aviva has fulfilled its obligation pursuant to the Agreement and has paid the amounts that it believed were owed to Talion pursuant to the Bond in accordance with par. 21 of the Indemnity Agreement.
- [21] The defendants’ obligations to indemnify Aviva are clearly spelled out in the Indemnity Agreement, which is the contract that binds the parties and that defendants have signed.

[22] I also reviewed the expenses claimed by Aviva and I am satisfied that they reflect the investigation and legal expenses incurred in carrying its obligations pursuant to the Indemnity Agreement.

Interest

[23] The plaintiff claims prejudgment interest at the contractual rate of 18%. Generally, courts give effect to interest rates contained in an agreement unless the terms are vague, unclear or infringe a statutory provision such as the *Interest Act*, R.S.C., 1985, c. 1-15: *Capital One Bank v. Matovska*; *Capital One Bank v. Blackwell*; *Capital One Bank v. Semple*, 2007 CanLII 37015, at para. 13 and *Gyimah v. Bank of Nova Scotia*, 2013 ONCA 252, at para. 10. Absent exceptional circumstances, it is appropriate and fair to use a contractual interest rate to which the parties have agreed: *Bank of America Canada v. Mutual Trust Co.*, 2002 SCC 43, at paras. 49-50, *Professional Court Reporters Inc. v. Pistachio Financier Corp.*, 2022 ONCA 669.

[24] Aviva has limited its claim for pre-judgement interest to December 18, 2025. It is entitled to pre-judgement interest in the amount of \$106,875.52.

[25] The post judgment interest rate is 18% per year pursuant to the terms of the Indemnity Agreement.



Des Rosiers J.

Released: April 28, 2026

CITATION: Aviva Insurance Company of Canada v. Mohammed Rawra et al.,
2026 ONSC 2539

COURT FILE NO.: CV-25-00739175-0000

DATE: 20260428

ONTARIO

SUPERIOR COURT OF JUSTICE

BETWEEN:

Aviva Insurance Company of Canada

Plaintiff

– and –

Mohammed Rawra, Nausheen Rafiq and Sajid
Rehmatullah

Defendant

REASONS FOR JUDGMENT

Des Rosiers J.

Released: April 28, 2026