

CITATION: *Warren v. Telus Health (Canada) Ltd. et al.*, 2025 ONSC 2765
COURT FILE NO.: CV-23-92550
DATE: 2025-05-08

SUPERIOR COURT OF JUSTICE - ONTARIO

RE: Troy Warren, Plaintiff

AND

Telus Health (Canada) Ltd. and Canada Post Corporation,
Defendants

BEFORE: The Honourable Mr. Justice Marc Smith

COUNSEL: Self-represented Plaintiff

Andrew Bratt, Counsel for the Defendant
Telus Health (Canada) Ltd.

Julien Frigon, Counsel for the Defendant Canada Post Corporation

HEARD: In writing

COSTS DECISION

M. SMITH J.

OVERVIEW

[1] The Plaintiff, Troy Warren, brought a motion to amend his Statement of Claim to increase his claim for lost wages to \$110,000 and to add the following Defendants: Chloe Rodricks, Telus Health (Canada) Ltd. (“Telus Health”), Canada Post Corporation (“CPC”), Mathieu Sicard, and Erin Keating.

[2] Mr. Warren was granted leave to add CPC as a party Defendant but none of the individual Defendants were added as parties to the claim. The name of the Defendant Lifework / Morneau Shepell was changed to Telus Health. The Defendant Gina D’Alfonso was removed as a party Defendant.

[3] Telus Health seeks costs in the amount of \$21,476.79 on the basis that they were entirely successful on this motion.

[4] Mr. Warren did not file any costs submissions.

[5] For reasons that follow, Telus Health is awarded costs in the amount of \$15,000, all-inclusive.

LEGAL PRINCIPLES

[6] Costs are at the discretion of the court: *Courts of Justice Act*, R.S.O. 1990, c. C.43, s. 131(1).

[7] Rule 57.01(1) of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, sets out the factors that a court may consider when deciding on a cost award.

[8] The overriding principles of fairness and reasonableness must be applied to each individual case: *Boucher v. Public Accountants Council (Ontario)* (2004), 71 O.R. (3d) 291 (C.A.).

[9] Principles of fairness dictate that parties would expect that hourly rates would bear some resemblance to what would be considered reasonable in the area where the case was tried: *Middleton v. Municipality of Highlands East*, 2013 ONSC 2027, 10 C.C.E.L. (4th) 275, at para. 5.

[10] Rates used for the purpose of fixing costs should have regard to what clients typically pay, which will vary, amongst other things, with the type of work, the geographic location, and the type of client: *Canfield v. Brockville Ontario Speedway*, 2018 ONSC 3288, 24 C.P.C. (8th) 133, at para. 23.

ANALYSIS

[11] Telus Health had some success on this motion. I refused to add Ms. Rodricks as a party to the claim and the misidentification of Telus Health was corrected. The removal of Ms. D'Alfonso as a party to the claim was made on consent. Mr. Warren was granted leave to further amend his Statement of Claim.

[12] Telus Health is entitled to some costs for this motion.

[13] Telus Health seeks their costs on a partial indemnity basis. This is the appropriate scale, but the issue is the quantum of costs being sought.

[14] The motion itself was not complex whatsoever. It involved the following: (i) the misidentification of the corporate defendant which was easily rectified; (ii) the removal of Ms. D'Alfonso as a party to the claim was agreed upon on consent during the motion. Telus Health had not brought a motion in this regard; and (iii) whether Ms. Rodricks' limited involvement in this claim, namely sending one standard form letter to Mr. Warren, constituted a basis for a defamation claim against Ms. Rodricks.

[15] Given the simplicity of this case, I am not persuaded that the time spent by counsel is reasonable and proportionate to a relatively simple issue in this case. Also, some of the time spent by counsel does not specifically pertain to responding to this motion.

[16] In terms of the hourly rates charged by counsel for Telus Health, I am of the view that they are excessive in our geographic location. Telus Health retained lawyers who are based in the City of Toronto. Mr. Warren's claim was commenced in the City of Ottawa. While Telus Health has the right choose counsel that works outside of the jurisdiction where the matter is heard, it is not reasonable to expect that Mr. Warren should pay higher hourly rates from another geographic location.

DISPOSITION

[17] In exercising my discretion, I believe that a fair and proportionate award of costs is \$15,000, all-inclusive, payable by Mr. Warren to Telus Health.

M. Smith J

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BETWEEN:

Troy Warren

Plaintiff

– and –

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Released: May 8, 2025