

CANADA / JUDGMENT

Bochard v. Odermatt and Spiliotakis

2003 BCSC 1600

COURT

Supreme Court of British Columbia

DECIDED

21 October 2003

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2003BCSC1600 IN THE SUPREME COURT OF BRITISH COLUMBIA Citation: Bochard v. Odermatt and Spiliotakis, 2003 BCSC 1600 Date: 20031021 Docket: 32871 Registry: Kamloops Between: Darryl Bochard Plaintiff And Denika Odermatt Defendant

- and - Docket: 32872 Registry: Kamloops Between: Darryl Bochard Plaintiff And Anik Spiliotakis Defendant Before: Master Hyslop as Registrar Reasons for Judgment Counsel for the plaintiff S.D. Dley Counsel for defendants D. Blois Date and Place of Trial/Hearing: October 1, 2003 Kamloops, B.C.
- [1] These actions commenced by the plaintiff were ordered to be tried at the same time, or on the same day. The actions are settled as a result of an offer to settle made by the defendants and accepted by the plaintiff by an acceptance of offer pursuant to Rule 37 of the Rules of Court.
- [2] The plaintiff and defendants presented bills of costs. The plaintiff's bills of costs were both assessed. The defendants' bills of costs related to an examination for discovery of the plaintiff scheduled by the defendants on May 13, 2003. The plaintiff did not show up as he forgot about it, and this was acknowledged by his counsel.
- [3] On May 12, 2003, plaintiff's counsel received a letter dated May 5, 2000 from the defendants' counsel enclosing an offer to settle pursuant to Rule 37 of the Rules. The plaintiff's solicitor had planned to meet the plaintiff on the morning of May 13, 2003, prior to the examination for discovery.
- [4] Given the time limitations, plaintiff's counsel did not have an opportunity to discuss the offer with the plaintiff until May 23, 2003. The offer of settlement was accepted by the plaintiff by an acceptance of offer dated May 23, 2003.
- [5] It is the plaintiff's submission that there was insufficient time between the time he received the offer and the examination for discovery to consider the offer. In support of this position the plaintiff refers to Rule 37(7), (22) and (27) of the Rules of Court. The plaintiff says whether or not he turned up for his examination for discovery did not matter as there would have been a cancellation fee assessed by the court reporters in any event. The defendants are seeking items 14 and 15 of the tariff in appendix B. The plaintiff seeks to have

the defendants' bills of costs disallowed.

- [6] Rule 37(7) does not permit Rules 37(23) to (29) to apply if the offer to settle is delivered less than seven days prior to trial. After delivery of an offer to settle by a defendant and accepted by a plaintiff, the plaintiff is entitled to assess costs up to the date of delivery and the defendant is entitled to assess costs thereafter pursuant to Rule 37(22)(b). Rule 37(27) gives the court a discretion to allow costs at a date later than delivery given a reasonable time for acceptance. Rules 37(7) and 37(27) relate to delivery of an offer to settle in an action where the court gives a judgment. This did not happen in this instance. Rule 37(22)(b) contemplates the assessment before me.
- [7] There are no rules in appendix B of the Rules of Court that permit me to do anything else other than what is required pursuant to Rule 37(22)(b) of the Rules.
- [8] As a result, I allow one set of units for the preparation and attending the examination for discovery based on one-half day for a total of six units, scale three. "Master H. Hyslop as Registrar"

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Prepared on 27 October 2026 · Esheria