

CITATION: Symtech Innovations Ltd. v. The Toronto Transportation Commission et al., 2026
ONSC 3859
COURT FILE NO.: CV-19-00624030-0000
DATE: 20260702

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:	)	
	)	
Symtech Innovations Ltd.	)	
	)	<i>Emilio Bisceglia</i> , for the Plaintiff
Plaintiff/ Defendants by Counterclaim	)	
	)	
– and –	)	
	)	
The Toronto Transportation Commission,	)	
Toronto Transit Commission, Toronto	)	
Transit Commission (formerly the Toronto	)	<i>Christopher M. Stanek</i> , for the Defendant
Transportation Commission) and Siemens	)	Siemens Canada Limited/ Simens Canada
Canada Limited/ Siemens Canada Limitée	)	Limitée
	)	
Defendant/ Plaintiffs by Counterclaim	)	
	)	
	)	
	)	
	)	READ: July 2, 2026

DES ROSIERS J.

Overview

- [1] The plaintiff, Symtech, brought a motion to oppose the confirmation of a report from a referee on a construction lien matter. The referee had granted a partial summary judgement. I dismissed the motion: I considered that the referee had considered the appropriate test and had applied it in a reasonable manner which did not amount to an error justifying overruling the referee.
- [2] The defendant, Siemens, claims costs in the amount of \$40,872.16. Symtech argues that the cost should be deferred to the final disposition of the reference or reduced to \$30,000.

Decision

- [3] For the reasons below, I award costs to Siemens in the amount of \$35,000.

Issues

[4] The issues are:

-whether the award of costs should be deferred to the final determination of the reference?

-In the alternative, what amount of costs is reasonable and fair?

Whether the award of costs should be deferred to the final determination of the reference?

[5] Costs on a motion should be determined following the motion decision: r. 57.03 of the *Rules of Civil Procedure*. Symtech argues that since Associate Justice Robinson has determined that the costs of the proceedings heard by him that led to the partial summary judgement should be reserved for the final determination of the reference, the costs of the review should similarly be reserved to the final determination of the reference. I disagree. The motion in front of me was a review of the Associate Justice's decision. It is appropriate that the costs follow the determination of the review. In general, costs should be awarded for every step of the litigation process.

What amount of costs is reasonable and fair?

[6] Pursuant to s. 131(1) of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, costs are in the discretion of the court. Rule 57 of the *Rules* sets out the factors which courts should have regard to when awarding costs. The overall objective is "to fix an amount that is fair and reasonable for the unsuccessful party to pay in the particular proceeding, rather than an amount fixed by the actual costs incurred by the successful litigant": *Zesta Engineering Ltd. v. Cloutier* (2002), 21 C.C.E.L. (3d) 161 (Ont. C.A.), at para. 4; *Boucher v. Public Accountants Council for the Province of Ontario* (2004), 71 O.R. (3d) 291 (C.A.), at para. 26; *Clarington (Municipality) v. Blue Circle Canada Inc.*, 2009 ONCA 722, 100 O.R. (3d) 66, at para. 52; and *G.C. v. Ontario (Attorney General)*, 2014 ONSC 1191, at para. 5.

Entitlement to Costs

[7] As a general rule, successful parties have a reasonable expectation that their costs will be paid by the unsuccessful party: *B.R. v. Children's Aid Society of Metropolitan Toronto*, [1995] 1 S.C.R. 315 at pp. 404-5. I am satisfied that Siemens is entitled to its costs of the motion.

Amount of Costs

[8] Siemens seeks payment of its costs on a partial indemnity basis in the amount of \$40,872.16 inclusive of counsel fee and H.S.T., and disbursements.

Principle of Indemnity

- [9] The purpose of an award of costs is to indemnify a party for at least a portion of the costs that the party incurred in defending or prosecuting a motion. Siemens makes a claim for fees with respect to the following lawyers, clerks and students:

Name of Professional	Years of Experience
Christopher Stanek	23
Stephanie Crimi (Articling Student)	

- [10] The vast majority of the work on the file was carried out by the articling student whose hourly rate is fixed at \$425., which amounts to \$255 on a partial indemnity basis. Mr. Stanek charges \$1,150 per hour (\$690 per hour on a partial indemnity basis), and completed 31.4 hours on the matter.
- [11] Siemens did not file detailed docket entries.

The Reasonable Expectations of the Parties

- [12] Symtech's costs for the motion are, on a partial indemnity basis, \$33,462.18. Senior Counsel Mr. Bisceglia is a 1993 year of call. His hourly fee is \$600.
- [13] The amount claimed by Symtech is less than the amount set out Siemens' cost submissions. I conclude that the amount \$35,000 is closer to the reasonable expectations of the parties.

Other factors

- [14] A substantial amount of money is at stake in these proceedings. I am satisfied that the action was of importance to both parties. I also agree with both parties that the issues involved an extensive record and raised relatively complex issues.

Conclusion

- [15] Costs are payable by the Plaintiff to the Defendant Siemens Canada Limited / Simens Canada Limitée in the amount of \$35,000 payable within 30 days.

Des Rosiers J.

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Transit Commission, Toronto Transit Commission
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REASONS FOR DECISION - COSTS

Des Rosiers J.

Released: July 2, 2026