

# COURT OF APPEAL FOR ONTARIO

CITATION: Taylor v. Hanley Hospitality Inc., 2023 ONCA 25

DATE: 20230113

DOCKET: C69587

Roberts, Miller and Zarnett JJ.A.

BETWEEN

Candace Taylor

Plaintiff  
(Appellant)

and

Hanley Hospitality Inc. o/a Tim Hortons

Defendant  
(Respondent)

Lior Samfiru and Lluc Cerda, for the appellant

Ian A. Johncox, for the respondent

Heard: April 1, 2022

On appeal from the order of Justice Jane E. Ferguson of the Superior Court of Justice dated June 7, 2021, with reasons reported at 2021 ONSC 3135.

## COSTS ENDORSEMENT

[1] On May 12, 2022, this court allowed the appellant's appeal from the motion judge's dismissal of her constructive dismissal action against the respondent. We set aside the motion judge's order, including the \$15,000 costs order to the respondent, and fixed the costs of the appeal to the appellant in the all-inclusive

amount of \$20,000. We directed the parties to make brief written submissions if they could not resolve the disposition of the costs before the motion judge.

[2] Although the parties filed written costs submissions respecting the underlying motion in June 2022, unfortunately, those submissions were misfiled and only recently brought to the panel's attention. We have now received and reviewed them and apologize to the parties for the delay.

[3] The appellant submits she is entitled to the same costs award of \$15,000 as the motion judge granted to the respondent; alternatively, she seeks partial indemnity costs in the amount of \$10,533.07, inclusive of all amounts. The respondent submits that there should be no costs of the motion.

[4] We conclude that the appellant is entitled to partial indemnity costs of the motion from the respondent in the all-inclusive amount of \$8,500. This amount takes into account some duplication in the efforts expended by appellant's counsel and represents a fair, reasonable and proportionate sum that ought to have been in the contemplation of the respondent if it were unsuccessful on the motion.

"L.B. Roberts J.A."

"B.W. Miller J.A."

"B. Zarnett J.A."