

2013 ONSC 1990  
Ontario Superior Court of Justice

Schneiderman v. Dis Avenue

2013 CarswellOnt 5155, 2013 ONSC 1990, 227 A.C.W.S. (3d) 964

**In the Matter of the Determination of Rights  
Under the Residential Tenancies Act, 2006**

Simon Schneiderman, Applicant and Dis Avenue, Respondent

Ellen Macdonald J.

Judgment: April 16, 2013

Docket: CV-12-447963

Proceedings: additional reasons to *Schneiderman v. Dis Avenue* (2012), 2012 CarswellOnt 14858, 2012 ONSC 6107 (Ont. S.C.J.)

Counsel: Simon Schneiderman, for Applicant  
Douglas H. Levitt, for Respondent

Subject: Property; Civil Practice and Procedure

**Related Abridgment Classifications**

For all relevant Canadian Abridgment Classifications refer to highest level of case via History.

**Real property**

V Landlord and tenant

V.20 Residential tenancies

V.20.b Constitutional issues

V.20.b.i Jurisdiction of boards and commissions

**Real property**

V Landlord and tenant

V.20 Residential tenancies

V.20.h Rent

V.20.h.iii Miscellaneous

**Headnote**

**Real property --- Landlord and tenant — Residential tenancies — Rent — Miscellaneous**

Landlord commenced application for rent arrears before Landlord and Tenant Board — Tenant vacated premises between filing of board application and hearing — Tenant brought unsuccessful application for determination of his rights under Residential Tenancies Act, 2006 — Submissions were received on costs — Costs were awarded on partial indemnity basis — This was no case for costs on substantial indemnity basis — Costs were fixed in amount of \$3,500 inclusive of disbursements and HST.

ADDITIONAL REASONS relating to costs of judgment reported at *Schneiderman v. Dis Avenue* (2012), 2012 CarswellOnt 14858, 2012 ONSC 6107 (Ont. S.C.J.).

***Ellen Macdonald J.:***

1 In this application I released reasons for decision on November 23, 2012. I have now received submissions on costs from both Mr. Schneiderman and from Horklick Levitt Di Lella LLP who were the solicitors of the Respondent on the application.

2 Mr. Schneiderman points out to a number of factors which he submits should reduce the amount being asked by the Respondents to an aggregate of \$2,610.87. He does so pointing out that there was waiting time in court and that the Respondent's counsel spent 2.6 hours between November 23 and 30, 2012 preparing costs submissions. He also points out that the costs submissions were only 6 paragraphs and a Cost Outline had already been prepared before the Application on August 29, 2012. I agree with Mr. Schneiderman that this is not a case for costs on a substantial indemnity basis. Accordingly, I will fix costs as best as I can given the bills of costs on a partial indemnity basis. The bill of costs of the Respondents is fixed on the basis that the award to the Respondent should be on a substantial indemnity rate. It is on this basis that they ask for costs in the amount of \$5,629.21 inclusive of fees and disbursements.

3 Having regard to the submissions made by both Mr. Schneiderman and Horlick Levitt Di Lella LLP, I fix costs in the amount of \$3,500.00 inclusive of disbursements and HST. These costs are payable to Horlick Levitt Di Lella LLP in trust forthwith.

*Order accordingly.*