

IN THE SUPREME COURT OF NOVA SCOTIA

Citation: Smith v. Michelin North America (Canada) Inc., 2008 NSSC 66

Date: 200803010
Docket: SH 248992
Registry: Halifax

Between:

Everett Smith

Applicant

- and -

Michelin North America (Canada) Inc.

Respondent

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Judge: The Honourable Justice Suzanne M. Hood

Heard: By written submissions: last written submissions January 15, 2008

Written Decision: March 10, 2008

Subject: Costs; costs from pension fund.

Summary: In a decision released October 30, 2007, the application of Everett Smith to have Michelin pay \$268 million into the Michelin pension fund was dismissed. The parties now address the issue of costs.

Issue:

1. Should both parties have their costs on a solicitor/client basis paid from the pension fund?
2. Alternatively, should they be paid on a party/party basis and, if so, on the basis of Tariff A or C?
3. In the further alternative, should only the successful party, Michelin, be entitled to its costs? Should they be paid from *a)* the pension fund or *b)* by the applicant personally?

Result: Costs of \$500,000.00 plus disbursements to successful respondent only; to be paid one-half by applicant, one-half from pension fund.

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