

SUPREME COURT OF NOVA SCOTIA

Citation: Scotia Recovery Services v. Dimensionally Specialized Carriers Inc.,
2008 NSSC 273

Date: 20080917

Docket: S.H. No. 264653A

Registry: Halifax

Between:

Scotia Recovery Services

Appellant

v.

Dimensionally Specialized Carriers Inc.

Respondent

DECISION ON COSTS

Judge: The Honourable Justice Gerald R P Moir

Heard: May 28, 2008 in Halifax

**Final Written
Submissions:** August 6, 2008

Counsel: Mr. David A Copp for the appellant
Mr. Dennis James and Mr. Matthew Dill for the
respondent

Moir, J:

[1] My decision of June 27, 2008 concluded as follows:

I will grant an order setting aside the learned adjudicator's order, directing a rehearing before another adjudicator, and providing for costs to the appellant of \$50 plus disbursements.

Since then, Mr. Copp, for the appellant, has asked me to award to the appellant travel expenses incurred to bring a principal of the appellant and a witness from Montreal to Pictou where the trial was held.

[2] Clause 23(a) of the *Small Claims Act Forms and Procedures Regulations* N.S. Reg. 17/93 provides that a judge who hears a small claims appeal may award "any costs which the adjudicator could have awarded under Section 15". Clause 15(f) allows the adjudicator to award

reasonable travel expenses where the successful party resides or carries on business outside the county in which the hearing is held.

[3] The expenses for which the appellant seeks indemnification are trial expenses, not appeal expenses. Since I had to refer the case back for retrial, we do not know which side will ultimately be successful.

[4] I am prepared to direct that the adjudicator who presides at the retrial may award costs of the first trial as the adjudicator sees fit, and I reserve the request for indemnification of travel expenses for the consideration of the adjudicator.

J.