SUPREME COURT OF NOVA SCOTIA
Citation: *McInnis v. McGuire,* 2014 NSSC 437

Date: 20141211
Docket: Hfx No. 429835A
Registry: Halifax

Between:

Weldon McInnis

Appellant

v.

Peter McGuire

Respondent

Revised Decision:	The text of the original decision has been corrected according to the attached erratum dated December 22, 2014.
Judge:	The Honourable Justice Denise Boudreau
Heard:	November 13, 2014, in Halifax, Nova Scotia
Written Decision:	December 11, 2014
Counsel:	Matthew J.D. Moir, for the Appellant Jonathan Hooper, for the Defendant

By the Court:

[1] This is an appeal of a taxation of legal accounts in the Small Claims Court.

[2] The dispute involved four accounts for legal services from the firm of Weldon McInnis, specifically work performed by Aileen McGinty, a solicitor at the firm. The respondent Peter McGuire is the client for whom legal work was being done.

[3] The facts are as follows: Mr. McGuire was, at all material times, a resident at the Arborstone Enhanced Care Facility in Halifax, Nova Scotia, an assisted-living facility. Mr. McGuire contacted Ms. McGinty in May 2013. At his request, Ms. McGinty attended at Arborstone and met Mr. McGuire on May 15th. The following are the facts as found by the adjudicator in respect of that first meeting (the adjudicator is referring to Mr. McGuire as "John Doe" during his decision):

> [13] Ms. McGinty learned that Mr Doe was 68. McGinty explained that Mr. Doe told her that he had made a Power of Attorney in favour of his daughter in 2004, but that he now wanted it changed. He also told Ms McGinty that he did not want to live at Arborstone and that he wanted to look at other homes, or get his own apartment. He told her that when he had mentioned his plan to the staff at Arborstone he had been told that "there were legal issues that prevented him from leaving."
>
> [14] Mr Doe told Ms McGinty that he had revoked the 2004 Power of Attorney in April 2012. The handwritten revocation, in the form of a letter dated April 25th, 2012 and directed to his daughter's attention, advised that "your service to

> me as Power of Attorney are no longer required:" Ex. McInnis Brief, Tab C. Mr Doe said his bank had refused to recognize the revocation, and that he was concerned about how his finances were being managed by his daughter.

[4] A retainer letter was prepared by Ms. McGinty, dated May 17th, and was signed by Mr. McGuire on May 23rd. The letter confirmed the retainer of Weldon McInnis "Re: Arborstone, Power of Attorney and related matters". The letter detailed Ms. McGinty's hourly rate, as well as an explanation of billings, disbursements, payments to be made and so on.

[5] In her testimony, before the adjudicator, Ms. McGinty stated that given Mr. McGuire's comments in relation to his inability to leave the facility, she had a concern as to a possible challenge to his mental competence in signing legal documents, particularly a new Power of Attorney. She consulted with senior lawyers at her firm and determined that, in her view, an expert was required in the area of mental competence. She located an appropriate expert and learned that that person's fee would be in the range of $5,000, which she then discussed with Mr. McGuire. Her recollection was that they did not have a long discussion about this report; however, in her professional opinion this report was a necessary step in order to establish that he was, in fact, competent to effect documentation such as a power of attorney. Mr. McGuire agreed with her recommendation in regard to this expert.

[6] Continuing on into the summer of 2013, the expert (Dr. Brunet) was retained and undertook her assessment of Mr. McGuire. She met with him and reviewed his medical files. She provided a report dated August 23, 2013. In Dr. Brunet's opinion, while Mr. McGuire had cognitive impairments, he had the capacity to instruct counsel and designate a power of attorney. On the other hand, Dr. Brunet was of the opinion Mr. McGuire lacked capacity in managing his estate. Having said that, she stated "he does have the ability to participate in decisions about his estate and is not sufficiently impaired that consideration should not be given to his input, suggestions and preferences".

[7] Prior to and following the receipt of Dr. Brunet's report, Ms. McGinty continued to effect work on behalf of Mr. McGuire. She met with Mr. McGuire on a number of other occasions, and effected correspondence and telephone discussions with various people, including Mr. McGuire's daughter.

[8] At the time Ms. McGinty was retained, there had been no formal determination that Mr. McGuire was incompetent to deal with his affairs. According to the record before me, it would appear that in 2010 Mr. McGuire had been involuntarily committed to hospital for treatment for a serious mental disorder, related to long term alcohol abuse.

[9] In July 2010, Mr. McGuire's difficulties resulted in a recommendation from medical professionals that he be housed at an assisted-living facility, where his needs could be properly met. Mr. McGuire was admitted to the Arborstone Facility in late 2010, and remained there throughout the period of time discussed herein. No court order was in existence during Ms. McGinty's retainer.

[10] However, all parties are in agreement that Mr. McGuire's situation and presentation would have (and should have) raised clear concerns in the area of his competence to care for himself, both legally and personally. Having said that, it should be noted that the adjudicator held that Mr. McGuire did, in fact, have capacity to retain and instruct counsel at the time he retained and instructed Ms. McGinty.

[11] Heading into the fall of 2014, Ms. McGinty continued to experience difficulties with the file. She had many discussions with Mr. McGuire as to his choice for a new Power of Attorney, but he could never commit to any one person. Further reports were received from medical professionals concerning Mr. McGuire's difficulties. Finally, in November 2013, Mr. McGuire told Ms. McGinty to close the file, as he did not want to "jeopardize his relationship with his daughter".

[12] The four accounts in issue are as follows:

1. August 19, 2013 - $2,972.75.

2. September 25, 2013 - $4,375.50.

3. October 29, 2013 - $1,607.64.

4. November 14, 2013 - $161.00.

[13] The September 25th amount was entirely a disbursement, representing the cost of the medical report from Dr. Brunet.

[14] The adjudicator disallowed this disbursement in its entirety. He determined that Ms. McGinty's decision to hire this expert was unreasonable, and premature, on the basis that Mr. McGuire's competence could be presumed, as with any other person. It was, in his view, unnecessary for Ms. McGinty to resolve this issue in order to perform the duties for which she had been hired. The adjudicator decided that Ms. McGinty should have effected other courses of action, rather than the one she took.

[15] In addition to the disbursement issue, the adjudicator also reduced Ms. McGinty's legal fees as contained in the three remaining accounts.

Law

[16] The appellant appeals to this Court and submits that the adjudicator committed numerous errors in law in reaching his conclusions.

[17] In my view, this case raises some very difficult issues with regard to the retainer of counsel by persons in vulnerable situations, the responsibility of counsel when faced with these situations, as well as solicitor/client privilege.

[18] As a starting point, appeals to this court are governed by s. 32(1) of the *Small Claims Court Act* RSNS 1989 c. 430:

> A party to proceedings before the Court may appeal to the Supreme Court from an order or determination of an adjudicator on the ground of
> (a) jurisdictional error;
> (b) error of law; or
> (c) failure to follow the requirements of natural justice,
> by filing with the prothonotary of the Supreme Court a notice of appeal.

[19] In this particular appeal, (a) and (c) were not raised. The grounds of appeal all relate to the issue of errors of law, mixed errors of fact and law, or errors of fact that are so serious as to constitute palpable and overriding error.

[20] The often quoted passage from Justice Saunders' decision in *Brett Motors Leasing Ltd. v. Welsford* 1999 NSJ 466 (S.C.) provides an explanation of the concept "error of law":

> 14 One should bear in mind that the jurisdiction of this Court is confined to questions of law which must rest upon findings of fact as found by the adjudicator. I do not have the authority to go outside the facts as found by the adjudicator and determine from the evidence my own findings of fact. "Error of law" is not defined but precedent offers useful guidance as to where a superior court will intervene to redress reversible error. Examples would include where a statute has been misinterpreted; or when a party has been denied the benefit of statutory provisions under legislation pertaining to the case; or where there has been a clear error on the part of the adjudicator in the interpretation of documents or other evidence; or where the adjudicator has failed to appreciate a valid legal defence; or where there is no evidence to support the conclusions reached; or where the adjudicator has clearly misapplied the evidence in material respects thereby producing an unjust result; or where the adjudicator has failed to apply the appropriate legal principles to the proven facts. In such instances this Court has intervened either to overturn the decision or to impose some other remedy, such as remitting the case for further consideration.

[21] Mistakes of fact are not reviewable absent palpable and overriding error: see *McNaughton v. Ward* 2007 NSCA 8:

> 34 While the appellant casts all of the grounds of appeal as errors "in law," the first three are, with respect, conclusions that derive from the trial judge's factual findings, assessment of the witnesses, and evaluation of the evidence. These are functions well within the jurisdiction of the trial judge, who enjoys a significant advantage in seeing and hearing the witnesses first hand. Such determinations draw a high degree of deference and will not be disturbed on appeal absent palpable and overriding error. As directed in such cases as *Housen, supra*, and *H.L. v. Canada (Attorney General)*, 2005 SCC 25, "palpable" refers to a mistake that is clear, in other words, plain to see; whereas "overriding" is an error that is shown to have affected the result. Both elements must be demonstrated. We, sitting as an appellate court, will not interfere with a trial judge's findings of fact unless we can plainly discern the imputed error, and the mistake is such that it discredits the result.

[22] The *Legal Profession Act* S.N.S. 2004 c. 28 provides the framework for the taxation of a lawyer's account to the Small Claims Court:

> Interpretation of Part
>
> 65 In this Part,
>
> (a) "account" means the fees, costs, charges and disbursement to be paid by a client or a party to a matter as a result of an order of a court;
>
> (b) "adjudicator" means an adjudicator of the Small Claims Court of Nova Scotia;
>
> (c) "lawyer" includes a law firm and a law corporation.
>
> Account recoverable
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> 66 A lawyer may sue to recover the lawyer's reasonable and lawful account.
>
> Taxation
>
> 67 Notwithstanding any other enactment, a lawyer's account may be taxed by
>
> (a) an adjudicator; or
>
> (b) a judge.
>
> Initiation of taxation
>
> 68 A taxation may be initiated by
>
> (a) any person claiming the whole or a portion of an account; or
>
> (b) any person from whom an account or any portion of it is claimed.

[23] Both counsel have also referred to Civil Procedure Rule 77.13 in regard of these issues. I note that Rule 77 deals with issue of costs in the context of litigation. Here the issue does not involve a costs order as a result of a proceeding,

but rather a lawyer's bill for services rendered to a client. However, the spirit of Rule 77.13 is helpful to the circumstances before the court here:

> **77**.13 (1) Counsel is entitled to reasonable compensation for services performed, and recovery of disbursements necessarily and reasonably made, for a client who is involved in a proceeding.
>
> (2) The reasonableness of counsel's compensation must be assessed in light of all the relevant circumstances, and the following are examples of subjects and circumstances that may be relevant on the assessment:
>
> (a) counsel's efforts to secure speed and avoid expense for the client;
>
> (b) the nature, importance, and urgency of the case;
>
> (c) the circumstances of the person who is to pay counsel, or of the fund out of which counsel is to be paid;
>
> (d) the general conduct and expense of the proceeding;
>
> (e) the skill, labour, and responsibility involved;
>
> (f) counsel's terms of retention, including an authorized contingency agreement, terms for payment by hourly rate, and terms for value billing.

[24] Also useful is the section relating to fees and disbursements in the Code of Professional Conduct of the Nova Scotia Barristers' Society, s. 3.6:

> Reasonable fees and disbursements
>
> 3.6-1 a lawyer must not charge or accept a fee or disbursement, including interest, unless it is fair and reasonable and has been disclosed in a timely fashion.

[25] That same Code provides us with s. 3.2-9 entitled "Clients with Diminished Capacity":

> When a client's ability to make decisions is impaired because of minority or mental disability, or for some other reason, the lawyer must, as far as reasonably possible, maintain a normal lawyer and client relationship.

[26] The commentary relating to that last section states as follows:

> A lawyer and client relationship presupposes that the client has the requisite mental ability to make decisions about his or her legal affairs and to give the lawyer instructions. A client's ability to make decisions depends on such factors as age, intelligence, experience and mental and physical health and on the advice, guidance and support of others. A client's ability to make decisions may change for better or worse over time. A client may be mentally capable of making some decisions but not others. The key is whether is client has the ability to understand the information relative to the decision that has to be made and is able to appreciate the reasonably foreseeable consequences of the decision or lack of decision. Accordingly, when a client is, or comes to be, under a disability that impairs his or her ability to make decisions, the lawyer will have to assess whether the impairment is minor or whether it prevents the client from giving instructions or entering into binding legal relationships.
>
> A lawyer who believes a person to be incapable of giving instructions should decline to act. However if a lawyer reasonably believes that the person has no other agent or representative and a failure to act could result in imminent and irreparable harm, the lawyer may take action on behalf of the person lacking capacity only to the extent necessary to protect the person until a legal representative can be appointed. A lawyer undertaking to so act has the same duties under these Rules to the person lacking capacity as the lawyer would with any client.

[27] With all of that framework in place, I will review each of the two issues.

[28] In relation to taxation generally, I note the case of *Lindsay v. Stewart, McKeen & Covert* [1988] NSJ No.9 (NSCA), where our Court of Appeal confirmed that the "ultimate test" in all cases, *even where there is an express*

agreement regarding the basis of remuneration, is whether the account is "reasonable". A lawyer cannot simply charge whatever "the traffic will bear".

[29] The bill must also be proportionate to the reason for the retainer. I note Justice Goodfellow's comments in *Tannous v. Halifax (City)* [1995] NSJ No. 422, at paragraph 24, where he confirmed that the taxing master was "not in error in stating that as a generalization, legal charges must bear some reasonable relationship to the value of the matter in issue." On the other hand, it is not appropriate for a taxation to review every step taken, seeking perfection. We must ask whether the actions were reasonable for that case, at that time. (*See Maclean v. Van Uninen* [1994] NSJ No. 206 (NSSCTD).

[30] The caselaw further establishes that certain factors are relevant in determining whether an account is reasonable. Some of those factors include: the existence or absence of a written agreement; any fee estimates made by the lawyer to the client; the accuracy and completeness of lawyers time billed; excessive preparation, duplicitous work; and results accomplished.

[31] The onus before the adjudicator was on the Appellant, as the law firm/lawyer, to establish on a balance of probabilities that the account was

reasonable. In *Mor-Town Developments v. MacDonald*, 2012 NSCA 35, our Court of Appeal said at para. 49:

> **49** To the extent that there remains any confusion regarding who bears the onus during the taxation of a lawyer's account let me be clear. The onus of proving the reasonableness of an account should always rest with the lawyer. The lawyer knows what was done, by whom and when. The lawyer knows how long it took to complete the task(s) and what fee was charged to do it. The lawyer will also know why the task or particular action was necessary. Rarely would a client be possessed of such information. To expect the client to "prove" the unreasonableness of the work done by the lawyer would neither be practical nor fair. In summary, whether the taxation is initiated by either the client or the lawyer, the lawyer bears the onus of proving that his or her account is lawful, and reasonable, in all of the circumstances.

Dr. Brunet's report

[32] I will start with the issue of the expert report. The Notice of Appeal submits 6 grounds of appeal with respect to Dr. Brunet's report. They are grounds #2(b) and #4 through #8:

> 2. The learned adjudicator erred in law by misdirecting himself as to the meaning of "reasonableness" as regards to:
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> a. …
>
> b. the appellant's having commissioned a medical opinion on behalf of the respondent.
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> 4. The learned adjudicator erred in law in determining that the said medical opinion was unnecessary.
>
> 5. The learned adjudicator erred in law in finding that the medical opinion was commissioned prior to the applicant knowing that the respondent's competence was an issue.

> 6. The learned adjudicator erred in law in finding that the appellant could have provided the advice and recommendations which the appellant had been retained to provide to the respondent without a medical report.
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> 7. The learned adjudicator erred in law in determining the advice to the respondent that ought to have been given by the appellant, without the need for an independent medical report, namely that the respondent was in care legally, that his desire to leave the care facility was being addressed and that his affairs were being managed properly by his attorney pursuant to a power of attorney.
>
> 8. The learned adjudicator erred in law in finding that the appellant should not have commissioned the medical opinion that the respondent instructed the appellant to commission.

[33] The adjudicator in the present case decided that the lawyer's decision to hire Dr. Brunet, at the time it was done, was unreasonable. He found as follows:

> [45] In this case I was not persuaded that it was reasonable for Ms. McGinty to advise Mr. Doe when she did that it was necessary to obtain a report from Dr. Brunet. Ms. McGinty made the decision shortly after meeting with Mr. Doe. She made it notwithstanding the principle that Mr. Doe was in law presumed to be competent unless someone else challenged – and disproved – that competence. She made it before knowing for certain that competence would be an issue raised by anyone. She made it without the benefit of Mr. Doe's complete medical file; without the benefit of speaking to the family physician (Dr. Couture) or to Ms. Doe. She also made the decision – and gave the advice – before she knew exactly what the history and issues with respect to his competence were, or whether an additional report was indeed necessary.
>
> [46] Moreover, the need for an opinion as to Mr. Doe's competence at the early stage of Ms. McGinty's retainer is unclear. Mr. Doe retained her to draft a new power of attorney; to look into why he was still at Arbor stone; and to look into the management of his affairs by his daughter. All of this could have been done without the need for an expert report...
>
> [48] In my view a more reasonable course of action would **first** have been to request and obtain Mr Doe's complete medical file; to speak to his family physician (Dr Courture); and to speak to the Arborstone staff and Ms Doe. Such information may have established that a report from yet another specialist was unlikely to produce a different conclusion. It may also have led to different advice to Mr. Doe-advice that (a) he was in Arborstone legally, (b) his desire to

> leave Arborstone for different accommodations was being addressed, and (c) his affairs were being managed properly by his daughter…"

[34] The adjudicator also noted that the client's consent in obtaining the report, did not justify the decision.

[35] As I have already stated, the overarching principle to be applied here continues to be that of reasonableness. In relation to disbursements such as expert fees, that principle continues to apply. (See *Coleman Frasier Whittome & Parcells* [2003] NSJ No. 272 (NS SCC).

[36] The first ground of appeal requires me to examine whether the learned adjudicator misdirected himself as to the meaning of "reasonableness" as it related to the retainer of this expert.

[37] When Ms. McGinty was contacted by Mr. McGuire, and obtained instructions from him, it seems clear to me that Mr. McGuire's case was far from routine. It involved an older gentleman in an assisted living facility, complaining that he was being held against his will. He further complained of a Power of Attorney previously granted to his daughter, that he had tried to revoke. He expressed concerns that his finances were not being dealt with appropriately.

[38] Ms. McGinty first determined, as she needed to, that Mr. McGuire was competent to retain counsel and give instructions. It would be disingenuous, in my view, to then suggest that in these circumstances Ms. McGinty should immediately have proceeded to the drafting of a new Power of Attorney. That seems to ignore the clear difficulties in the case. Given the set of facts and circumstances before Ms. McGinty at the time of her retainer, in my view a number of possible avenues were open to her in order to effect the work Mr. McGuire retained her to do, any number of which might have been reasonable. She decided to obtain a report from an independent expert, to review the file and provide an opinion as to competence .

[39] The adjudicator appropriately identified the test to be applied to this disbursement as "reasonableness". However, in my view he did not properly apply the test in relation to the facts before him. Rather than considering whether the approach taken by Ms. McGinty was reasonable within itself, he undertook a review of her actions in light of an alternative approach he himself fashioned, faced with the same fact scenario. In my view this is a misapplication of the test of reasonableness.

[40] Obviously a taxing master assesses legal bills, that is his function. However, we must always remember that lawyers may, and often do, differ in their approach to various legal problems. Sometimes, many different approaches are reasonable.

In such cases, lawyers reach reasoned conclusions that certain courses of action are required, and seek instructions; this is even more the case in situations where the issues are not straightforward, as in the case of Mr. McGuire.

[41] In my view, a review of reasonableness does not mean that the adjudicator personally agrees with the approach taken by the lawyer, or whether it is the approach that every lawyer would have taken. It is not appropriate to review a lawyer's bill with an eye toward determining a "more" reasonable approach. If the approach taken by the lawyer is reasonable, this fulfills the requirements of the test.

[42] In this particular case, Ms. McGinty was facing a client who had, comparatively speaking, some complicated issues. The issue of his competence to effect a new Power of Attorney was, in my view, a predictable concern which a competent lawyer would have in mind. Whereas all persons are presumed to be competent, the circumstances of Mr. McGuire certainly created, at the very least, a doubt. Whether every lawyer would have undertaken the retaining of an expert at that particular time, is not the test. Allowance must be made for the individual opinions of solicitors who are ultimately responsible for their legal work.

[43] The decision of Ms. McGinty to retain an expert was not made impulsively, or without thought. She discussed the matter with senior lawyers in her office prior to approaching Mr. McGuire with that advice. Mr. McGuire agreed with her advice to hire such an expert, in the knowledge of the cost of this expert. I do not find her decision to seek such a report, at that time, unreasonable in the circumstances.

[44] The respondent argues that, while Mr. McGuire was competent to retain counsel, he was not competent over his financial affairs, which means that he would be incapable of agreeing to such a large expenditure. I do not accept that argument. Ms. McGinty had determined that Mr. McGuire was able to give instructions; she was therefore entitled to act on his instructions, as would any lawyer.

[45] I therefore find that the adjudicator erred in law in his application of the test of reasonableness to the disbursement relating to Dr. Brunet. I allow the appeal in respect of Ground #2(b) of the Notice of Appeal, and I allow the disbursement relating to Dr. Brunet in its entirety. I make no comment as to the other grounds of appeal relating to the report; notably, as to whether the retainer of the expert was "necessary" (ground #4).

Bills for legal services

[46] In relation to the issue of Ms. McGinty's legal bills, the appellant has provided three grounds of appeal, listed below:

> 1. The learned adjudicator erred in law by reducing the appellant's fees without providing sufficient reason for the reduction.
>
> 2. The learned adjudicator erred in law by misdirecting himself as to the meaning of "reasonableness" as regards to:
>
> a. The appellant's fees; and
>
> b….
>
> 3. The learned adjudicator erred in law by misdirecting himself as to the evidence concerning what services the appellant had been retained to perform on behalf of the respondent.

[47] The adjudicator's decision in respect of the legal bills is contained in paragraphs 42 and 43 of his decision.

> [42] The bulk of the time related to services provided under this retainer up to September 10th. The total of all the time spent by Ms. McGinty over the three accounts was 33 hours. Had the accounts been rendered at her normal rate they would have totalled $6,611.50. However, the accounts were reduced by a "legal fee discount" to the amounts claimed (as set out above).
>
> [43] In my opinion total fees in excess of $4,500.00 in respect of what Ms McGinty's was retained to do is in this case unreasonable. It takes little to draft a Power of Attorney. An investigation of Mr. Doe's state and condition – and of the conduct of his financial affairs – would reasonable have taken more time and involved more work. A review of these three accounts details roughly 9 hours related to review of documents and discussions with staff at Arborstone, the bank and Ms Doe (and her counsel). Discussions with Mr. Doe about those matters would have taken up more time. For that I allow 3 more hours, for a total of 12 hours. I allow a further hour for the Power of Attorney, which brings it to a total of 13 hours. At Ms McGinty's hourly rate of $200/hour that would amount to $2,600.00 plus HST of $390.00, for a total of $2,990.00.

[48] Other than simply stating that, in his view, the total bill was unreasonable, the adjudicator has provided no reasons for discounting Ms. McGinty's bill for time spent discussing matters with Mr. McGuire. As I have already stated, Mr. McGuire's situation was far from straightforward. The retainer was not simply for the drafting of a new Power of Attorney. Further, all parties acknowledged before the adjudicator, and before me at this appeal, that Mr. McGuire faced significant cognitive challenges in relation to various areas of his life. Given those factors, it would seem to me that additional time might very well be spent by a lawyer with Mr. McGuire, in order to fulfill their duty to ensure that he fully understood his circumstances and the advice given.

[49] In relation to ground of appeal #3, the adjudicator found that Ms. McGinty had been retained to do three things:

a. obtain a new power of attorney;
b. investigate or obtain Mr. Doe's release from Arborstone; and
c. look into the management of his financial affairs by his daughter.

[50] The facts as reviewed by the adjudicator in paragraphs 13 and 14 of the decision support the above noted finding as to the retainer, and I reject that ground of appeal.

[51] In the case of *R. v. Sheppard* [2002] S.C.J. No. 30, the Supreme Court determined that a failure to give reasons is not an error of law in itself. However, a deficiency of reasons may equate to an error of law where such deficiency prevents meaningful appellate review.

[52] In relation to ground of appeal number one, I find that the adjudicator did not provide sufficient reasons for discounting the legal bill in the manner that he did. I am left without meaningful reasons that I might evaluate to determine their reasonableness. I grant the appeal, as to the remaining legal bills, on that basis. Having said that, I am not in a position to assess the reasonableness of the bills myself, given the lack of record before me as to those details. I therefore return the issue of the appellant's remaining legal bills back to the Small Claims Court for rehearing before a different adjudicator.

[53] The parties may file submissions as to costs, if they cannot agree.

Boudreau, J.

Date: 20141211
Docket: Hfx No. 429835A
Registry: Halifax

Between:

Weldon McInnis

Appellant

v.

Peter McGuire

Respondent

Judge:	The Honourable Justice Denise Boudreau
Heard:	November 13, 2014, in Halifax, Nova Scotia
Written Decision:	December 11, 2014
Erratum:	December 22, 2014
Counsel:	Matthew J.D. Moir, for the Appellant Jonathan Hooper, for the Defendant

Erratum:

[1] On page 3 of the decision, paragraph [4], line 3, the name "McGinnis" shall be replaced with the name "McInnis".

[2] On page 18, paragraph [43], line 3, the name "Mr. McGinty" shall be replaced with the name "Mr. McGuire".

Boudreau, J.