

ENDORSEMENT

Judge: Muszynski, J

Court File No.: CV-19-00000214-0000

Jurisdiction: Belleville

Short Case Name: Bennett v. Mills Insurance Brokers Limited et al

Unrepresented, for Plaintiff(s)

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Mark O'DONNELL, for Defendant(s)

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Anthony Gatensby, for Defendant(s) Intact

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The moving party, Intact Insurance, brings this motion to dismiss the action due to delay pursuant to Rule 24.01 of the Rules of Civil Procedure.

This action relates to a water loss that occurred to the plaintiff's property. The action was commenced by notice of action issued May 14, 2019, followed by the statement of claim, issued on June 12, 2019. The plaintiff sought coverage for the loss from Intact Insurance, or, damages from Mills Insurance Brokers Limited and Christie Mills Insurance Brokers.

The claim against Mills Insurance Brokers Limited and Christie Mills Insurance Brokers was dismissed on consent. The claim against Intact Insurance continued.

The affidavit evidence before me sets out clearly and succinctly the history of this litigation. Essentially, since March 2021, no steps have taken place to move the litigation forward by the plaintiff despite prompting by Intact. Indeed, examinations for discovery have not yet taken place.

It is notable that the plaintiff's lawyer has been removed as solicitor of record. On January 17, 2023, Bonn Law office delivered a notice of intention to act in person signed by Ms. Bennett, which includes Ms. Bennett's current mailing address and email address. Since that date, counsel for Intact has written to Ms. Bennett directly advising that a motion to dismiss for delay would be forthcoming. Ms. Bennett was served with a copy of the motion material. There has not been any response.

I am satisfied that Intact is entitled to an order dismissing the plaintiff's action entirely. Ms. Bennett has had opportunities to move this action forward but that has not occurred. It is not the responsibility of the

defendant to move the matter forward. That said, I am satisfied that the defendant has gone above and beyond, but to no avail.

Intact seeks its costs which, on a partial indemnity scale, are \$7,481.87 inclusive of HST plus \$1,195.01 in disbursements, \$8,676.88 in total.

I am satisfied that a fair and reasonable costs award in this case is \$7,500 all inclusive payable by the plaintiff to the defendant, Intact. Counsel for Intact has confirmed that he will recommend not taking steps to enforce the costs award unless the plaintiff moves to set aside this dismissal order.

Date: 11 APRIL 2023

A handwritten signature in black ink, appearing to read "Muszynski J.", written in a cursive style.

Muszynski J.