

- [3] Mr. Lepp should be well acquainted with the principles that guide the court as it relates to the penalty phase of a finding of contempt. Those principles are well set out in a decision of Justice Di Luca in the *Corporation of the Town of Aurora vs Robert Lepp*. In his reasons at paragraph 6, Di Luca J. states “as a general principle, the role of a civil contempt finding is twofold; first, it seeks to enforce compliance with the court order and second, it seeks to foster societal respect for the court process”.
- [4] In determining an appropriate sentence for civil contempt, there are a number of factors that the court must consider including the following a) the proportionality of the sentence to the wrongdoing b) the presence of mitigating factors c) the presence of aggravating factors d) deterrence and denunciation e) the similarity of sentence in like circumstances and f) the reasonableness of a fine or incarceration. All these principles are also referred to in the decision of Di Luca J., a decision which directly involved Mr. Lepp.
- [5] While Mr. Lepp is no stranger to the contempt process and has already been fined by Di Luca J., I am not of the view that a period of incarceration is something that this court should consider despite Mr. Lepp’s blatant disregard for court orders. A period of incarceration particularly during this COVID pandemic in my view would not be appropriate. Nonetheless, in fixing the appropriate penalty, I’m mindful that the guiding principle in this case should be one of not only specific deterrence but general deterrence as well.
- [6] As for any mitigating factors, I was not referred to any factors that in my view would mitigate against any penalty that this court might impose. While Mr. Lepp might apologize and suggest that it was never his intention to disobey orders of this court, I am not satisfied based either on his submissions or his evidence that in his mind an order of this court is anything more than a piece of paper.
- [7] Mr. Lepp in his submissions made it quite clear that his financial resource has been strained as a result of costs awards and fines that he has been subject to in connection with various proceedings in this court. Mr. Lepp went so far as to suggest that he filed a proposal in bankruptcy. His proposal initially caused this court to adjourn the penalty phase of these proceedings to determine whether or not the proposal in bankruptcy might require a stay of these proceedings. Ultimately, I was satisfied that the proposal in bankruptcy would have no impact on these proceedings. I am also not satisfied based on the financial information provided to this court that Mr. Lepp has an inability to access assets to pay any fine this court might impose.
- [8] When Mr. Lepp was found in contempt by Di Luca J., he was ordered to pay a fine of \$1,500. Mr Lepp is not a first offender when it comes to findings of contempt. In my view, the appropriate fine to reflect this Court’s finding of contempt as well as the fact that Mr. Lepp is a repeat offender is to impose a fine of \$3,000 which is to be paid by Mr. Lepp within 30 days.

- [9] If the Town of Aurora is seeking costs, the parties may make written submission limited to 2 pages which submissions are to be received by the court no later than August 30, 2021.



Regional Senior Justice Edwards

Released: August 5, 2021

CITATION: Lepp v. York, 2021 ONSC 5424

ONTARIO

SUPERIOR COURT OF JUSTICE

BETWEEN:

Robert Lepp

Plaintiff

– and –

The Regional Municipality of York, The York Regional Police Services Board, York Regional Police, The Corporation of the Town of Aurora, Mandie Eddie (aka Mandie Crawford), Helen Clarke (aka Helen Clarke-Jennings), Jaclyn Solomon

Defendants

REASONS FOR DECISION

Regional Senior Justice Edwards

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