

**Date: 20080711**

**Docket: T-1020-07**

**Citation: 2008 FC 866**

**Halifax, Nova Scotia, July 11, 2008**

**PRESENT: The Honourable Mr. Justice O'Keefe**

**BETWEEN:**

**HER MAJESTY THE QUEEN  
IN RIGHT OF CANADA**

**Applicant**

**and**

**KEYVAN NOURHAGHIGHI**

**Respondent**

**REASONS FOR ORDER AND ORDER**

**O'KEEFE J.**

[1] As stated by Keyvan Nourhaghighi (the respondent), this is a motion for:

- a. The reconsideration of the order O'Keefe J dated November 6, 2007, at the last term of the order that: the respondent shall have his costs of this motion and such costs shall be assessed by an assessment officer ("Order") by amending the term to a lump sum awards of costs that may deem just; and the time be extended to the date of hearing of this motion by O'Keefe J.

b. The costs of this motion be fixed in the amount of \$1500.00 to be paid forthwith.

c. Such other relief that the Moving Party may ask and may be permitted.

[2] A motion to reconsider an order is governed by Rule 397 of the *Federal Courts Rules*,

S.O.R./98-106 which reads as follows:

397.(1) Within 10 days after the making of an order, or within such other time as the Court may allow, a party may serve and file a notice of motion to request that the Court, as constituted at the time the order was made, reconsider its terms on the ground that

(a) the order does not accord with any reasons given for it; or

(b) a matter that should have been dealt with has been overlooked or accidentally omitted.

(2) Clerical mistakes, errors or omissions in an order may at any time be corrected by the Court.

397.(1) Dans les 10 jours après qu'une ordonnance a été rendue ou dans tout autre délai accordé par la Cour, une partie peut signifier et déposer un avis de requête demandant à la Cour qui a rendu l'ordonnance, telle qu'elle était constituée à ce moment, d'en examiner de nouveau les termes, mais seulement pour l'une ou l'autre des raisons suivantes :

a) l'ordonnance ne concorde pas avec les motifs qui, le cas échéant, ont été donnés pour la justifier;

b) une question qui aurait dû être traitée a été oubliée ou omise involontairement.

(2) Les fautes de transcription, les erreurs et les omissions contenues dans les ordonnances peuvent être corrigées à tout moment par la Cour.

[3] As the respondent's motion for reconsideration was filed on February 27, 2008, the motion was not filed within 10 days after the making of my order or the amended order. As such, the respondent must obtain an extension of time for the filing of the motion.

[4] In *Vinogradov v. Canada (Minister of Employment and Immigration)*, [1994] F.C.J. No. 647, Mr. Justice MacKay a former judge of this Court stated at paragraph 2 of his decision:

[...] For the reasons set out below in dealing with the application for an extension of time to file an application record, in seeking leave for an extension of time for reconsideration of the decision the applicant is required to set out a reasonable explanation for the delay and to provide a basis for the Court to conclude that there is an arguable case that warrants the exercise of discretion to extend the time for applying. [...]

[5] From the respondent's affidavit, filed materials and submissions, it appears that the respondent wishes to make this motion because of the alleged delay in the assessment of his costs and because of the orders of Mr. Justice Kelen and Madam Justice MacTavish. The respondent provided no specific explanation for the delay in filing for a reconsideration of my order.

[6] I am not satisfied that the respondent has provided a reasonable explanation for the delay in filing the motion for reconsideration of my order.

[7] I am also not satisfied that the materials submitted provide a basis upon which to conclude that there is an arguable case that warrants the exercise of my discretion to extend the time for applying for a reconsideration of my order.

[8] As a result, the respondent's request for an extension of time to file his motion must be denied. Consequently, the respondent's motion for reconsideration is also denied.

[9] In the alternative, even if the extension of time had been granted, I would not have been satisfied that the motion could be granted as my order with respect to costs is clear on its face and no matter that should have been dealt with was overlooked or accidentally omitted.

[10] There shall be no costs awarded for this motion.

**ORDER**

[11] **IT IS ORDERED that:**

1. The respondent's motion for an extension of time to file his motion for reconsideration is dismissed.
2. The respondent's motion for reconsideration is dismissed.

There shall be no order for costs for this motion.

“John A. O’Keefe”

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Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** T-1020-07

**STYLE OF CAUSE:** HER MAJESTY THE QUEEN  
IN RIGHT OF CANADA

- and -

KEYVAN NOURHAGHIGHI

**PLACE OF HEARING:** Toronto, Ontario

**DATE OF HEARING:** May 8, 2008

**REASONS FOR ORDER  
AND ORDER OF:** O'KEEFE J.

**DATED:** July 11, 2008

**APPEARANCES:**

May Porteous	FOR THE APPLICANT
Keyvan Nourhaghighi	SELF-REPRESENTED FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

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Keyvan Nourhaghighi Toronto, Ontario	SELF-REPRESENTED FOR THE RESPONDENT