

Federal Court

Cour fédérale

Date: 20100623

Docket: T-1720-09

Citation: 2010 FC 689

[UNREVISED ENGLISH CERTIFIED TRANSLATION]

BETWEEN:

MICHEL BÉLANGER

Plaintiff

and

HER MAJESTY THE QUEEN

Defendant

ASSESSMENT OF COSTS – REASONS

DIANE PERRIER, ASSESSMENT OFFICER

[1] This is an assessment of the Defendant's bill of costs further to the order of the Federal Court on December 18, 2009, allowing, with costs, the Defendant's motion to strike the Plaintiff's statement of claim completely, without leave to amend, and to have the Plaintiff's action dismissed.

[2] On March 22, 2010, counsel for the Defendant filed the bill of costs alongside the affidavit of Gabrielle Clément and exhibit "A" and requested that it be assessed without appearance of the parties. On April 29, 2010, letters were sent to the parties establishing a timetable for filing written submissions. The parties have filed their written submissions. I am now ready to assess the Defendant's bill of costs.

[3] The Defendant is claiming the following counsel fees: item 5 – preparation and filing of the Defendant's contested motion, including all materials (7 units), item 25 – services after judgment not otherwise specified (1 unit) and item 26 – assessment of costs (6 units). The Defendant is seeking the maximum number of units for all items claimed. Upon reading the file and the parties' submissions, I share the opinion of Assessment Officer Stinson in *Bruce Starlight v. Her Majesty the Queen*, 2001 FCTD 999 at paragraph 7 that "... each item is assessable in its own circumstances and it is not necessary to use the same point throughout in the range for items as they occur in the litigation." Item 5 will therefore be allowed for 6 units, because I consider it reasonable to allocate 6 units for this type of motion.

[4] Item 25 – services after judgment not otherwise specified will be allowed for 1 unit as claimed by the Defendant. I find, as the Defendant stated in citing in its reply the decision of Assessment Officer Pilon in *Richards v. Canada* (Minister of National Revenue – M.N.R.) 2005 FC 265, 2005 D.T.C. 5157, that assessment officers typically allow the single unit without the need for supporting evidence because this item serves to cover services provided after judgment.

[5] Item 26 – assessment of costs will be allowed for 3 units because I consider this to be a simple assessment.

[6] The Defendant's counsel fees, claimed at \$1,820 will therefore be allowed in the amount of \$1,300.

[7] The photocopies of the Defendant's motion record in the amount of \$228.75 are disputed by the Plaintiff, who claims that photocopy costs are already covered by the units allocated under item 5. I do not agree, because it is common practice for assessment officers to allow the amount of \$0.25 per page for photocopies. See the decision in *Bernard v. Attorney General of Canada*, as the Defendant suggests. Bailiff fees in the amount of \$151.57 will be allowed as claimed because they are not disputed and appear to be reasonable and proven by affidavit. Disbursements will therefore be allowed in the amount of \$380.32.

[8] The Defendant's bill of costs totalling \$2,200.32 is assessed and allowed in the amount of \$1,680.32. A certificate of assessment will be issued for this amount.

MONTRÉAL, QUEBEC

June 23, 2010

“Diane Perrier”

DIANE PERRIER
ASSESSMENT OFFICER

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:

T-1720-09

STYLE OF CAUSE:

MICHEL BÉLANGER

v. HER MAJESTY THE QUEEN

ASSESSMENT OF COSTS IN WRITING

PLACE OF ASSESSMENT:

Montréal, Quebec

ASSESSMENT OF COSTS – REASONS:

DIANE PERRIER,

ASSESSMENT OFFICER

DATED:

June 23, 2010

WRITTEN SUBMISSIONS:

Michel Bélanger

FOR THE PLAINTIFF

Michel Miller

FOR THE DEFENDANT

SOLICITORS OF RECORD:

Myles J. Kirvan
Deputy Attorney General of Canada
Montréal, Quebec

FOR THE DEFENDANT