

Date: 20070720

Docket: A-508-06

Citation 2007 FCA 260

BETWEEN:

ROBERT LAVIGNE

Appellant

and

MR. ROBERT PEPIN and CANADA POST CORPORATION

Respondents

ASSESSMENT OF COSTS - REASONS

W. DOYLE
Assessment Officer

[1] The respondents filed a Bill of Costs pursuant to the March 26, 2007 judgment of the Federal Court of Appeal in which the appellant's appeal of a decision of Mr. Justice de Montigny regarding the granting of the respondents' motion to strike the appellants' statement of claim was dismissed with costs.

[2] On May 18, 2007 the respondents filed their Bill of Costs with a supporting affidavit requesting the assessment be done in writing without personal appearance.

[3] On June 13, 2007 I issued a timetable for reply and rebuttal materials. To date the appellant has not filed a written reply.

[4] The Bill of Costs is presented claiming; item 18 – preparation of appeal book (1 unit), item 19 - memorandum of fact and law (five units), item 21- written representation by respondents in response to a motion for expedited hearing (2 units), item 22 – counsel fee on hearing of appeal (3hours x 2 units), item 26 – assessment of costs (four units), item 28 – services of a paralegal for the preparation of the appeal book (50% of 1unit), item 28 – services of a paralegal for the preparation of the memorandum of fact and law (50% of five units), item 28 – services of a paralegal for the preparation of the bill of costs (50% of four units).

[5] I reviewed the file, the court database abstracts and the Bill of Costs in these proceedings. I will allow item 18, 19, 21 and 22 as presented. As for item 26, since the Bill of Costs was not objected to and in my opinion straightforward, I will allow two units not the requested four units. In relation to item 28, as I have stated in previous assessments, it is my respectful opinion, that it is improper to indemnify counsel for services of a paralegal when a claim is already awarded for these items (item 18, 19 and 26) no units will be allowed under item 28.

[6] Based on the foregoing reasoning the total assessable service amount will be reduced from the requested \$3,145.02 to an allowed total assessable service amount of \$2, 187.84.

[7] Disbursements, appearing reasonable for this type of litigation and being established by the affidavit of Suzanne Raiche which is accompanied with a copy of the printout from the accounting records evidencing the disbursements incurred, are awarded in the amount of \$1, 086.72.

[8] The bill of costs presented at \$4,231.74 is accordingly assessed and allowed in the amount of \$3,274.56. A certificate is issued in the Federal Court of Appeal proceeding for \$3,274.56.

"Willa Doyle"
Assessment Officer

Fredericton, New Brunswick
July 20, 2007

FEDERAL COURT OF APPEAL
NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-508-06

STYLE OF CAUSE: ROBERT LAVIGNE -and-
CANADA POST CORPORATION & ROBERT PEPIN

ASSESSMENT OF COSTS IN WRITING WITHOUT PERSONAL APPEARANCE OF
THE PARTIES

ASSESSMENT OF COSTS -
REASONS BY: Willa Doyle, Assessment Officer

DATED: July 20, 2007

WRITTEN REPRESENTATIONS BY:

Richard Desgagnés
Azim Hussain FOR THE RESPONDENTS

SOLICITORS OF RECORD:

Ogilvy Renault LLP FOR THE RESPONDENTS
Montréal, Québec