

Date: 20080124

Docket: A-457-03

Citation: 2008 FCA 30

BETWEEN:

LARRY MACHULA

Appellant

and

HER MAJESTY THE QUEEN

Respondent

ASSESSMENT OF COSTS - REASONS

Charles E. Stinson
Assessment Officer

[1] The Court dismissed with costs this appeal of a decision of the Tax Court of Canada concerning non-remittance of payroll deductions. I issued a timetable for written disposition of the assessment of the Respondent's bill of costs. The record indicates that the Appellant's solicitor of record no longer represents him. His former solicitor did provide a forwarding address, which has proved problematic for service on him. Having regard to Rule 140(3), I directed the Registry to post a letter setting out the timetable, together with a copy of the Respondent's materials, and instructions for its retrieval, on the public notice board in the Calgary, Alberta and Winnipeg, Manitoba offices of the Registry.

[2] The Appellant did not file any materials in response to the Respondent's materials. My view, often expressed in comparable circumstances, is that the *Federal Courts Rules* do not contemplate a litigant benefiting by having an assessment officer step away from a neutral position to act as the litigant's advocate in challenging given items in a bill of costs. However, the assessment officer cannot certify unlawful items, i.e. those outside the authority of the judgment and the tariff. I examined each item claimed in the bill of costs and the supporting materials within those parameters. There were items which might have attracted disagreement, but the total amount claimed is generally arguable as reasonable within the limits of the award of costs. The Respondent's bill of costs, presented at \$1,478.25, is assessed and allowed at \$1,737.25 (including the minimum item 26 counsel fee for the assessment of costs). There is an addition error for disbursements in the bill of costs. However, the amount claimed (\$67.25) is consistent with the demands for payment made of the Appellant by the Respondent and is reasonable in the circumstances. I allowed the \$67.25 as claimed.

[3] Having regard to Rule 140(3), I direct the Registry to post this decision, together with a Certificate of Assessment, a copy of the Respondent's bill of costs as assessed and instructions to the Appellant on how he may retrieve them, from today until February 29, 2008, on the public notice board in each of the two offices of the Registry noted above. I note that this period extends beyond the ten (10) days provided in Rule 414 for the service and filing of a notice of motion for a review of the assessment of costs.

"Charles E. Stinson"
Assessment Officer

FEDERAL COURT OF APPEAL

SOLICITORS OF RECORD

DOCKET: A-457-03

STYLE OF CAUSE: LARRY MACHULA v. HMQ

ASSESSMENT OF COSTS IN WRITING WITHOUT PERSONAL APPEARANCE OF THE PARTIES

REASONS FOR ASSESSMENT OF COSTS: CHARLES E. STINSON

DATED: January 24, 2008

WRITTEN REPRESENTATIONS:

n/a FOR THE APPELLANT
(self-represented)

Mr. Gerard Chartier FOR THE RESPONDENT

SOLICITORS OF RECORD:

n/a FOR THE APPELLANT

John H. Sims, Q.C.
Deputy Attorney General of Canada FOR THE RESPONDENT