

Date: 20081002

Docket: A-255-07

Citation: 2008 FCA 296

BETWEEN:

DAVID BIRKETT

Appellant

and

CANADIAN HUMAN RIGHTS COMMISSION

Respondent

and

SUE GOODWIN

Respondent

ASSESSMENT OF COSTS - REASONS

Johanne Parent
Assessment Officer

[1] On April 4, 2008, the Court dismissed with costs the appeal from the dismissal of an application for judicial review of a decision of the Canadian Human Rights Tribunal (CHRT). Counsel for both the appellant and the respondent CHRT filed their submissions on costs and agreed on the written disposition of the assessment of this bill of costs.

[2] The assessable services claimed under Tariff B of the *Federal Courts Rules* for the preparation of the responding memorandum of fact and law (Item 19), for counsel fee on hearing of appeal to first counsel (Item 22) and for the assessment of costs (Item 26) were not contested and will be assessed as claimed.

[3] With regard to the claim for services after judgment not otherwise specified (Item 25), it is allowed as claimed as I am satisfied that counsel has reviewed the outcome of this affair with his client.

[4] Counsel for the appellant questions the disbursement for travel expenses on the basis that the CHRT has an obligation to treat all appellants equally. According to the argument made, parties not residing in Ottawa should not be burdened with travel expenses. I agree with my learned colleague's reasons for assessment in the trial file of this matter, *Goodwin v. Birkett*, [2007] F.C.J. No. 1705, "...the arrangements for the location of the Crown's legal representative are permissible if reasonable as here". Considering the evidence provided and the reasonableness of the expenses, the travel disbursements are allowed as claimed.

[5] The respondent claims \$171.36 in Provincial Sales Tax (PST) on assessable services. The definition of "taxable service" found under subsection 1(1) of the *Retail Sales Tax Act*, R.S.O. 1990, c. R.31, does not mention "legal service". As costs assessment should only indemnify for actual costs, I disallow the amount claimed.

[6] The bill of costs is allowed at \$2,517.91 plus GST (\$102.00) for a total amount of \$2,619.91.

“Johanne Parent”

Assessment Officer

Toronto, Ontario
October 2, 2008

FEDERAL COURT OF APPEAL

SOLICITORS OF RECORD

DOCKET: A-255-07

STYLE OF CAUSE: DAVID BIRKETT v. CANADIAN HUMAN RIGHTS
COMMISSION and SUE GOODWIN

**ASSESSMENT OF COSTS IN WRITING WITHOUT PERSONAL APPEARANCE OF
THE PARTIES**

REASONS FOR ASSESSMENT OF COSTS: JOHANNE PARENT

DATED: OCTOBER 2, 2008

WRITTEN REPRESENTATIONS:

Charles C. Roach FOR THE APPELLANT

Daniel Poulin FOR THE RESPONDENT
Canadian Human Rights Commission

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