

Date: 20081016

Docket: A-132-07

Citation: 2008 FCA 310

BETWEEN:

ATTORNEY GENERAL OF CANADA

Applicant

and

JENNIFER LYNNE EDMISON

Respondent

ASSESSMENT OF COSTS - REASONS

Johanne Parent
Assessment Officer

[1] On January 23, 2008, the Attorney General's judicial review application was dismissed by the Court with costs. A timetable for written disposition of the assessment of the respondent's bill of costs was issued on July 16, 2008. Counsel for both parties filed submissions.

[2] The respondent is seeking the full amount claimed for fees and disbursements. Party-and-party costs does not necessarily result in a successful party being reimbursed for all fees and disbursements incurred in a proceeding. Unless the Court orders otherwise, which is not the case here, counsel fees are assessable under column III of *Tariff B of Federal Court Rules*.

[3] In assessing costs, the factors referred to in subsection 400(3) of the *Federal Court Rules* along with the specifics of the file are to be considered. With regards to paragraph 400(3)(a), while the Court dismissed the application for judicial review with costs, it was noted that “this is a borderline case”. The respondent’s record did not contain any affidavit and the memorandum of fact and law was only a few pages in length. Not to deny the respondent’s effort in preparing for this matter, the apparent amount of work and actual time in Court do not justify the high end of Column III.

[4] In her bill of costs, the respondent claimed the main assessable services under sub-heading F of *Tariff B of the Federal Court Rules* which pertains to the appeals to the Federal Court of Appeal. This file, however, deals with an application for judicial review and does not meet the definition of appeals as per Rule 335 of the *Federal Court Rules*. I have, therefore, revisited each item claimed to determine the applicable Tariff item. The assessable services claimed under Item 16 for the preparation of the respondent’s record should be claimed under Item 2. Despite the respondent’s argument, the Tariff does not allow for second counsel fees under Items 16 or 2 and, furthermore, the service under these Items are not based on a number of hours multiplied by the number of allocated units. Considering my previous statement, five units will be allocated for this Item. The counsel fee for preparation for hearing claimed under Item 27, should be claimed under Item 13(a). Three units will be allowed for this Item. Counsel fee on hearing of application to first counsel will be allowed two units times 2 hours under Item 14(a). Item 25 for services after judgment was not contested and will be assessed as claimed. Considering the material submitted in support of the bill of costs, Item 26 for the assessment of costs is allowed at three units.

[5] The disbursements claimed are not disputed and are all considered reasonable. They are allowed as claimed.

[6] The bill of costs is allowed at \$2,063.72 plus GST on fees (\$96.00) for a total amount of \$2,159.72.

“Johanne Parent”
Assessment Officer

Toronto, Ontario
October 16, 2008

FEDERAL COURT OF APPEAL

SOLICITORS OF RECORD

DOCKET: A-132-07

STYLE OF CAUSE: *ATTORNEY GENERAL OF CANADA v. JENNIFER LYNNE EDMISON*

ASSESSMENT OF COSTS IN WRITING WITHOUT PERSONAL APPEARANCE OF THE PARTIES

REASONS FOR ASSESSMENT OF COSTS: JOHANNE PARENT

DATED: OCTOBER 16, 2008

WRITTEN REPRESENTATIONS:

Adam Rambert FOR THE APPLICANT

Maria N Sirivar FOR THE RESPONDENT

SOLICITORS OF RECORD:

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