

Docket: 2005-1759(IT)G

BETWEEN:

LESLIE JOSEPH STANKOWSKI,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

CERTIFICATE OF COSTS

I CERTIFY that I have taxed the party and party costs of the Respondent in this proceeding under the authority of subsection 153(1) of the *Tax Court of Canada Rules* (General Procedure) and I ALLOW THE SUM OF \$4,739.65.

Signed at Toronto, Ontario, this 6th day of August 2009.

“B.G. Tanasychuk”

Taxing Officer

Citation: 2009TCC389
Date: 20090806
Docket: 2005-1759(IT)G

BETWEEN:

LESLIE JOSEPH STANKOWSKI,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

REASONS FOR TAXATION

Barbara Tanasychuk, T.O., T.C.C.

[1] This taxation came on for hearing by way of a telephone conference call on June 24, 2009. It follows a Judgment of the Honourable Madam Justice Judith Woods of this Court dated March 11, 2008, in which the appeal with respect to an assessment made under the *Income Tax Act* was dismissed, with costs. The Appellant represented himself and Mr. Shatru Ghan represented the Respondent.

[2] The Bill of Costs filed on October 24, 2008, is as follows:

1.(1) Services of Counsel:

1(1)(a) For all services in a proceeding prior to an Examination for Discovery	\$525.00
1(1)(b) For a discovery of documents or inspection of property	\$150.00
1(1)(c) For Examination for Discovery held on January 26, 2007	\$525.00
1(1)(e) For preparation for and attendance at a show cause hearing held on November 30, 2007	\$125.00
For preparation for and attendance at a show cause hearing held on September 7, 2007	\$125.00

1(1)(g) For preparation for hearing	\$625.00
1(1)(h) For conduct of the hearing for each day or part thereof (at \$1,500.00 per day), held on March 10, 2008	\$1,500.00
1(1)(i) For all services after judgment	\$300.00
TOTAL FEES:	\$3,875.00

1.(2) Disbursements:

Discovery Transcripts: \$267.65
MHFFeltman Verbatim Reporting

Photocopying: \$8.40

Reply:

4 pages x \$0.20 x 4 copies = \$3.20

List of Documents (Partial Disclosure):

5 pages x \$0.20 x 4 copies = \$4.00

Notice to Attend: 3 pages \$0.20 x 1 copy = \$0.60

Joint Application: 3 pages x \$0.20 x 1 copy = \$0.60

Process Server: \$63.60

Cancor Services – served Notice to Attend and
Respondent’s List of Documents (Partial Disclosure)

TOTAL DISBURSEMENTS: \$339.65

TOTAL FEES AND DISBURSEMENTS: \$4,214.65

1(1)(c) For taxation of costs \$525.00

Total Fees and Disbursements: (including taxation of
costs if necessary) \$4,739.65

APPELLANT’S POSITION

[3] Mr. Stankowski’s position is that the Respondent is not entitled to recover any amount for costs. Mr. Stankowski referred to a letter from Canada Revenue Agency (CRA), which he said set out the amount owing to CRA, and included a statement that once payment was made, all legal action would be removed. As the letter he referred to was not before me, a copy of the letter was forwarded after this hearing. The letter from CRA is dated May 30, 2008 (CRA letter) and is as follows:

Canada Revenue
Agency

Tax Services Office
Scarborough ON M1P 4Y3

May 30, 2008

LESLIE J STANKOWSKI
6193 KINGSTON RD
SCARBOROUGH ON M1C 1L1

Account Number
480 316 496

Dear Sir:

Re: Request for Account Status Letter for:
Leslie Joseph Stankowski

This letter is in response to your telephone request for your outstanding balance owing to Canada Revenue Agency (CRA).

As of today's date, there is a balance owing of \$85,000.00.

The above information was drawn from Canada Revenue Agency's (CRA) existing computerized records relating to this account.

Please forward your cheque or payment to the attention of P. Strachan at the address noted below. Write your account number on the front of your cheque to help us process it.

All legal action taken on account will be immediately removed once payment is posted to account.

Please call us at the number below if you need more information.

Yours sincerely,

P. Strachan
Collections Officer

[4] Mr. Stankowski stated that he paid the \$85,000.00 referred to in the CRA letter. It is his position that he has paid all amounts owing to CRA and the Respondent cannot now look to him for payment of costs. Mr. Stankowski placed emphasis on the wording of the 5th paragraph of the CRA letter, which states:

“All legal action taken on account will be immediately removed once payment is posted to account.”

RESPONDENT’S POSITION

[5] Mr. Ghan does not agree with Mr. Stankowski. He stated that the CRA letter set out the balance owing by Mr. Stankowski, which is a separate matter, unrelated to the costs awarded by the Court, which the Respondent is entitled to.

DECISION

[6] The Judgment in this appeal was issued on March 11, 2008. The CRA letter referred to by Mr. Stankowski is dated May 30, 2008.

[7] The Respondent’s Bill of Costs was filed with the Court on October 24, 2008. However, the Respondent had been corresponding with Mr. Stankowski regarding the issue of costs, as early as June 11, 2008. Attached as Exhibit “E” to the Affidavit of Hilda Mozaffar is a letter dated June 11, 2008 from Mr. Ghan to Mr. Stankowski, in which the Respondent’s Bill of Costs was enclosed and a request for payment of costs was made. No response was received and a further letter dated July 25, 2008 (Exhibit “F” to the Affidavit of Hilda Mozaffar) was sent to Mr. Stankowski. Mr. Ghan’s first letter to Mr. Stankowski was sent less than two weeks after the CRA letter.

[8] The CRA letter included a statement that “all legal action taken on account will be immediately removed once payment is posted to account”. As Mr. Stankowski paid \$85,000.00 to CRA, which was the balance outstanding on his account, he feels that the Respondent is not entitled to the costs awarded by the Court. I do not agree. The Court’s award of costs in favour of the Respondent arose out of an unsuccessful appeal filed by Mr. Stankowski. Any legal action taken by CRA to collect the balance outstanding on Mr. Stankowski’s account is unrelated to the costs awarded by the Court, which the Respondent is entitled to pursue.

[9] The amounts claimed for counsel fees are in accordance with Schedule II, Tariff B of the *Tax Court of Canada Rules* (General Procedure) and I allow the sum of \$4,400.00, which includes \$525.00 for this taxation of costs. The amount

claimed for disbursements were substantiated by an Affidavit of Disbursements of Hilda Mozaffar, sworn October 23, 2008, to which copies of invoices were attached as Exhibits. I am satisfied that the disbursements were essential for the conduct of the proceeding. I accordingly allow the amount of \$339.65 on account of disbursements.

[10] The bill of costs is taxed and \$4,739.65 is allowed. A certificate in that amount will be issued.

Signed at Toronto, Ontario, this 6th day of August 2009.

“B.G. Tanasychuk”

Taxing Officer