

Date: 20070925

Docket: 07-T-32

Citation 2007 FC 965

BETWEEN:

ATTORNEY GENERAL OF CANADA

Applicant

and

LYNN FRENCH

Respondent

**ASSESSMENT OF COSTS- REASONS**

**W. DOYLE**  
**Assessment Officer**

[1] The applicant filed a motion in writing pursuant to Rule 369 of the ***Federal Courts Rules*** for an Order pursuant to Rule 8 of the ***Federal Courts Rules*** in which the applicant sought an extension of time to file its notice of application for a judicial review of a decision of the Canadian Human Rights Commission Notice of Application. The parties filed their respective motion materials. June 20, 2007 The Honourable Mr. Justice Harrington issued an Order dismissing the applicant's notice of motion for an extension of time and awarded costs to the respondent.

[2] On July 16, 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 17, 2007 I issued a timetable for reply and rebuttal materials.

[4] The respondent's are requesting assessable services for two items: (a) – preparation and filing of a contested motion, including materials and responses thereto (seven units) and (b) – assessment of costs (four units). These items are requested under Column III of Tariff B, pursuant to Rule 407 of the ***Federal Courts Rules***.

[5] In regard to the assessable services the assessable range for item (a) - preparation and filing of a contested motion, including materials and responses thereto is three to seven, and for item (b) – assessment of costs the range is two to six.

[6] I agree with the applicant's position and feel the simplicity of the motion does not warrant units at the top of the range, the matter was not complex. I have therefore reduced both amounts to the lower end of the column III scale; item (a) is allowed at three units and item (b) is allowed at two units. Based on the foregoing, the total assessable service amount will be reduced from the requested \$1,320.00 to an allowed total assessable service amount of \$600.00.

[7] Disbursements, although established by affidavit, are not accompanied by exhibits as is customary for specific disbursements sought. I have therefore chosen to address the three claimed disbursements collectively namely (a) photocopies, (b) computer research and (c) courier and I allow \$286.78 in total for these three items. My reasoning reflects that as pronounced by Taxing Officer Stinson in the case of *Carlile v. Canada* (Minister of National Revenue - M.N.R.) [\[1997\] F.C.J. No.885](#) in which he states the following;

"...Taxing Officers are often faced with less than exhaustive proof and must be careful, while ensuring that unsuccessful litigants are not burdened with unnecessary or unreasonable costs, to not penalize successful litigants by denial of indemnification when it is apparent that real costs were indeed incurred. ..."

[8] The amount of HST (harmonized sales tax) is equally adjusted and is allowed at \$40.15 to properly reflect the tax attracted by the allowed disbursements of \$286.78. The total disbursements are hereby reduced from the requested \$561.29 to an allowed \$326.93.

[9] The bill of costs presented at \$1,881.29 is accordingly assessed and allowed in the amount of \$926.93. A certificate is issued in the Federal Court proceeding for \$926.93.

"Willa Doyle"  
Assessment Officer

Fredericton, New Brunswick  
September 25, 2007

FEDERAL COURT  
NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: 07-T-32

STYLE OF CAUSE: ATTORNEY GENERAL OF CANADA  
-and- LYNN FRENCH

ASSESSMENT OF COSTS IN WRITING WITHOUT PERSONAL APPEARANCE OF  
THE PARTIES

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

DATED: September 25, 2007

WRITTEN REPRESENTATIONS BY:

Melissa Cameron FOR THE APPLICANTS

Trisha Gallant-Leblanc FOR THE RESPONDENTS

SOLICITORS OF RECORD:

Justice Canada  
Atlantic Regional Office  
Halifax, NS FOR THE APPLICANTS

Cox & Palmer  
Fredericton, NB FOR THE RESPONDENTS