

Federal Court of Appeal



Cour d'appel fédérale

Date: 20100824

Docket: A-71-05

Citation: 2010 FCA 214

[ENGLISH TRANSLATION]

BETWEEN:

PIERRE ARCHAMBAULT

Appellant

and

CANADA CUSTOMS AND REVENUE AGENCY

Respondent

ASSESSMENT OF COSTS – REASONS

[1] On February 10, 2006, the Federal Court of Appeal dismissed with costs the appeal from the Federal Court's decision made on February 7, 2005, dismissing with costs the application for judicial review filed by Pierre Archambault.

[2] On June 23, 2010, the respondent filed its bill of costs and requested that it be assessed without the appearance of the parties. On June 30, 2010, a direction was sent to the parties setting a

timetable for the filing of written submissions. Since I have yet to receive any written submissions, I am now ready to assess costs based on documentation in the record.

[3] The respondent seeks the following fees: Item 19 – memorandum of fact and law (7 units), Item 21 – counsel fees: preparation of a reply record to the appellant’s motion for determining the content of, and preparing, the appeal record (see order dated April 28, 2005) (3 units), Item 22(a) – counsel fees during the appeal hearing for the first counsel for each hour at the Court on February 8, 2006, from 2:28 p.m. to 3:48 p.m. (3 units x 1.33 hrs.), Item 24 – travel by counsel to a hearing (5 units) and Item 26 – assessment of costs (6 units).

[4] The respondent seeks the maximum units for all the fees requested. I have therefore considered the factors outlined in subsection 400(3) of the *Federal Courts Rules* to adjust the items to what I considered reasonable given the type of case. I therefore adjusted Item 19 – memorandum of fact and law (5 units). Item 26 – assessment of costs was allowed at 2 units because the assessment is simple and unchallenged. Item 24 – travel by counsel to a hearing cannot be awarded since the table in Tariff B states “at the discretion of the Court.” Since there is no order by or direction from the Court in this case, the assessment officer does not have jurisdiction to award it. The fees to be assessed are therefore allowed in the amount of \$1,818.70.

[5] The disbursements are allowed in the amount of \$565.56. I have awarded all disbursements requested for photocopying and bailiff fees with the exception of photocopying and service of the notice costs because this item is not included in the table under Tariff B.

[6] The respondent's bill of costs submitted at \$3,864.61 is allowed in the amount of \$2,384.26.

A certificate of assessment will be issued for this amount.

MONTRÉAL, QUEBEC
August 24, 2010

“Diane Perrier”

DIANE PERRIER
ASSESSMENT OFFICER

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-71-05

STYLE OF CAUSE: PIERRE ARCHAMBAULT
v. CANADA CUSTOMS AND
REVENUE AGENCY

ASSESSMENT OF COSTS IN WRITING

PLACE OF ASSESSMENT: Montréal, Quebec

ASSESSMENT OF COSTS – REASONS: DIANE PERRIER
ASSESSMENT OFFICER

DATED: August 24, 2010

SOLICITORS OF RECORD:

Myles J. Kirvan
Deputy Attorney General of Canada
Montréal, Quebec

FOR THE RESPONDENT