



OCT 14 1997

T-306-93

BETWEEN:

LIEUTENANT (N) ANDREW S. LIEBMANN  
Canadian Forces (Reserve)

Plaintiff

- and -

MINISTER OF NATIONAL DEFENCE and  
CHIEF OF THE DEFENCE STAFF and  
HER MAJESTY THE QUEEN

Defendants

- and -

THE LEAGUE FOR HUMAN RIGHTS OF  
B'NAI BRITH CANADA

Intervenor

TAXATION OF COSTS - REASONS

F. Pilon  
Taxing Officer

This is the taxation of the Defendants' Bill of Costs on a party-and-party basis. Pursuant to an Order of the Court dated April 12, 1996, the Defendants were allowed costs of a motion heard at Vancouver on February 26, 1996. In July 1997 Ms. Linda Wall, counsel for the Defendants, wrote to the Administrator to have this taxation disposed of in writing. Parties had until September 12, 1997 to submit written representations. The Bill of Costs was filed as follows:

97 287 043

| <u>Item</u> | <u>Taxable Service</u>   | <u>Column III<br/>Number of Units</u> | <u>Amount</u>    |
|-------------|--|---------------------------------------|------------------|
| 5           | Preparation and filing of a contested motion, including materials and responses thereto          | 7                                     | \$700.00         |
| 6           | Appearance on a motion or application, per hour @ 1 hour   | 3                                     | \$300.00         |
| 24          | Travel by counsel to attend any trial, hearing, application, examination or analogous proceeding | 5                                     | \$500.00         |
| 25          | Services after Judgment not otherwise specified  | 1                                     | \$100.00         |
|             |  | <b>TOTAL FEES</b>                     | <b>\$1600.00</b> |

Mr. Samuel Hyman, the solicitor for the Plaintiff, filed an affidavit and written representations in response to the proposed Bill of Costs. Counsel for the Defendants, Ms. Linda Wall, filed a letter and written submissions in reply. Careful consideration was given to the factors listed under Rule 346 (1.1) in determining the appropriate number of units to allow for each item.

Counsel for the Defendants seeks 7 units for item 5. The affidavit of Catherine Lystiuk filed in support of the Bill of Costs does little, in my view, to justify obtaining the maximum number of units. Plaintiff's position is that the said motion, which was to compel further answers from a deponent on discovery, was a procedural application at an interlocutory stage and was neither extensive, inordinate nor difficult in its preparation. Ms. Wall replies that the Court made it clear in its Reasons for Order that this motion could well have been avoided. In the circumstances I am prepared to allow 5 units for this item.

Counsel for the Defendants claims 3 units for item 6 on the basis the hearing lasted 3 hours. The record shows 2 motions were heard by the Court at the same time, the first one resulting in costs being in the cause. The Minutes of Hearing on the Court file clearly reveal the duration of counsel's arguments for each motion. The arguments for the motion we are dealing with here (Court document number 100) lasted 1 hour and 50 minutes. Having read the thorough set of Minutes of Hearing taken by the Court Registrar I am prepared to allow 2 units multiplied by 1 for the first hour and by 0.83 for the portion of the second hour for a total of \$366.00.

The next item, number 24, is for a claim in the amount of \$500.00 for counsel's expenses to travel from Ottawa to Vancouver to attend the hearing. This item is at the discretion of the Court only and cannot be claimed by a party unless it is provided for in the Order. Finally, the amount of \$100.00 is claimed for services after Judgment under item 25. However, Defendants are now abandoning this claim as stated in Ms. Wall's letter dated September 11, 1997.

Accordingly, the Defendants' Bill of Costs, presented at \$1,600.00 is allowed and taxed in the amount of \$866.00

Signé Signed  
FRANCOIS PILON

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Francois Pilon  
Taxing Officer

Halifax, Nova Scotia  
September 15, 1997

NAMES OF COUNSEL AND SOLICITORS OF RECORD

STYLE OF CAUSE:       LIEUTENANT (N) ANDREW S. LIEBMANN

- and -

MINISTER OF NATIONAL DEFENCE et al

- and -

THE LEAGUE FOR HUMAN RIGHTS et al

COURT NO.:       T-306-93

TAXATION OF COSTS IN WRITING WITHOUT PERSONAL APPEARANCE

TAXATION OF COSTS - REASONS OF:  
FRANÇOIS PILON, TAXING OFFICER, dated September 15, 1997.

SOLICITORS OF RECORD:

Samuel D. Hyman Law Corporation  
Vancouver, B.C.

for the Plaintiff

George Thompson  
Deputy Attorney General of Canada  
Ottawa, ON

for the Defendants

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