

Date: 20071018

Docket: T-1958-04

Citation: 2007 FC 1080

BETWEEN:

MICHEL TREMBLAY

Applicant

and

**THE ATTORNEY GENERAL
OF CANADA**

Respondent

ASSESSMENT OF COSTS - REASONS

Charles E. Stinson
Assessment Officer

[1] The Court dismissed with costs this application for judicial review of a decision of the Canadian Human Rights Commission dismissing the Applicant's complaint concerning disability instead of referring it to the Canadian Human Rights Tribunal. I issued a timetable for written disposition of the assessment of the Respondent's bill of costs.

[2] Counsel for the Applicant asserted that health problems preclude his client from engaging in legal proceedings and therefore he cannot give instructions for the assessment of costs to his counsel. Therefore, the request for assessment and the costs sought should be denied. Counsel for the Applicant asserted that this attempt to obtain costs effectively claws back his client's statutory

benefits which as his only source of income barely support him. As well, the Respondent makes a profit by responding to this litigation brought in good faith and not for vexatious purposes. The salary of counsel for the Respondent was paid regardless of whether or not he chose to respond to the application for judicial review.

[3] The Court in *Canada v. James Lorimer & Co.*, [1984] 1 F.C. 1065 at 1076-77 (C.A.), cited in *Canada (A.G.) v. Georgia College of Applied Arts and Technology*, [2003] 4 F.C. 525 at para. 29 (F.C.A.), held that the Crown is entitled to obtain costs. I held in *Latham v. Canada*, [2007] F.C.J. No. 650 (A.O.), that financial hardship is not a factor in an assessment of costs.

[4] Effectively, these circumstances are as if the Applicant had advanced no materials given the absence of any relevant representations which could have assisted me in identifying issues and making a decision. My view, often expressed in comparable circumstances, is that the *Federal Courts Rules* do not contemplate a litigant benefiting by having an assessment officer step away from a neutral position to act as the litigant's advocate in challenging given items in a bill of costs. However, the assessment officer cannot certify unlawful items, i.e. those outside the authority of the judgment and the tariff. I examined each item claimed in the revised bill of costs and the supporting materials within those parameters. The total amount claimed is generally arguable as reasonable within the limits of the award of costs and is allowed as presented at \$5,805.33.

"Charles E. Stinson"
Assessment Officer

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-1958-04

STYLE OF CAUSE: MICHEL TREMBLAY v. AGC

ASSESSMENT OF COSTS IN WRITING WITHOUT PERSONAL APPEARANCE OF THE PARTIES

REASONS FOR ASSESSMENT OF COSTS: CHARLES E. STINSON

DATED: October 18, 2007

WRITTEN REPRESENTATIONS:

Yavar Hameed FOR THE APPLICANT

Richard Casanova FOR THE RESPONDENT

SOLICITORS OF RECORD:

Hameed & Farrokhzad FOR THE APPLICANT
Ottawa, ON

John H. Sims, Q.C. FOR THE RESPONDENT
Deputy Attorney General of Canada