

**Date: 20090122**

**Docket: T-74-06**

**Citation: 2009 FC 64**

**BETWEEN:**

**JEAN PELLETIER**

**Applicant**

**and**

**ATTORNEY GENERAL OF CANADA**

**Respondent**

[ENGLISH TRANSLATION]

**ASSESSMENT OF COSTS – REASONS**

**DIANE PERRIER, ASSESSMENT OFFICER**

[1] This is an assessment of the respondent's bill of costs following the Federal Court of Appeal's judgment on January 9, 2008, allowing the appeal of file A-221-07 with costs in the Federal Court and in the Federal Court of Appeal. Note that the case in Federal Court was an application for judicial review allowed by the Honourable Justice Lemieux with costs under Column V of Tariff B.

[2] On April 14, 2008, counsel for the respondent filed its bill of costs and requested that it be assessed without appearance of the parties. Letters were sent to the parties, setting a timetable to file

their written submissions. Since the parties have filed their written submissions, I am now ready to assess costs.

[3] The respondent seeks the following fees: item 2 – preparation of the respondent’s bill of costs (7 units), item 5 – preparation of a contested motion and written submissions (7 units), item 13 – preparation for hearing (5 units), item 14(a) – attendance at the hearing on January 22 and 23, 2007, for a total of 11 hours (3 units) and item 26 – assessment of costs (6 units).

[4] In its response to the applicant’s written submissions against the respondent’s bill of costs, the respondent agreed to remove from the bill of costs the fees and disbursements associated with the motion to obtain a suspension of the judicial review hearing, as a verification of the record revealed that the motion had been filed without costs. Consequently, I disallowed item 5 and the associated disbursements.

[5] In his submissions against the bill of costs, the applicant disputes the claim of the maximum number of units for the memorandum of fact and law, preparation for the hearing and attendance at the hearing. The applicant argues that the minimum number of units should be allowed for these items given the relative simplicity of the matter at hand (a second judicial review, for which most of the facts and issues were similar to those addressed in the first judicial review). The applicant also states that the assessment of the bill of costs should be allowed for 2 units given the simplicity of the assessment.

[6] On the contrary, the respondent argues that the maximum number of units should be allowed because, in Federal Court, the Honourable Justice Lemieux had awarded costs to the applicant under Column V of Tariff B based on the outcome of the case and the complexity of the issues and that the applicant had filed a bill of costs claiming the maximum of Column V in Tariff B. Therefore, the respondent states that it is justified in claiming the maximum number of units set out in Column III of Tariff B given the complexity of the issues raised.

[7] I would like to reiterate that the assessment officer's role is to consider each service provided by counsel as distinct and to assess it in context. Given the file and the criteria set out in Rule 400(3) of the *Federal Courts Rules*, I have reduced item 2 for the filing of the respondent's record from 7 to 6 units and reduced item 13 for preparing for the hearing from 5 to 4 units. I have allowed 3 units for attending the hearing on January 22 and 23, 2007 (total duration of 9 hours and 55 minutes according to the transcript of the hearing as opposed to the 11 hours claimed) and have reduced item 26 for assessment of costs from 6 to 3 units. The fees to be assessed are therefore allowed in the amount of \$5,131.20.

[8] Disbursements are allowed in the amount of \$1,249.14. I allowed the following disbursements: the photocopies of the respondent's file, the serving and filing of the respondent's record and travel expenses, since they are not disputed. They appear to me to be reasonable and are supported by affidavit. I disallowed the disbursements for the notice of appearance because it is not mentioned in Tariff B under fees to be assessed.

[9] The respondent's bill of costs, totalling \$8,339.42, is assessed and allowed in the amount of \$6,380.34. A certificate of assessment will be issued for this amount.

MONTRÉAL, QUEBEC  
January 22, 2009

---

DIANE PERRIER  
ASSESSMENT OFFICER

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**COURT FILE NO.:** T-74-06

**Between:**

**JEAN PELLETIER**

**Applicant**

**AND**

**ATTORNEY GENERAL OF CANADA**

**Respondent**

**ASSESSMENT OF COSTS IN WRITING**

**PLACE OF ASSESSMENT:**Montréal, Quebec

**REASONS OF DIANE PERRIER, ASSESSMENT OFFICER**

**DATED:** January 22, 2009

**WRITTEN SUBMISSIONS:**

Nathalie Mercier Filteau for the applicant

Carole Bureau for the respondent

**SOLICITORS OF RECORD:**

Stikeman Elliott  
Montréal, Quebec for the applicant

John Sims  
Deputy Attorney General of Canada  
Ottawa, Ontario for the respondent