

Date: 20090514

Docket: A-48-06

Citation: 2009 FCA 159

BETWEEN:

VAN DUMONT

Appellant

and

**HER MAJESTY THE QUEEN
THE DEPUTY ATTORNEY GENERAL OF CANADA**

Respondents

ASSESSMENT OF COSTS - REASONS

**Charles E. Stinson
Assessment Officer**

[1] The Court dismissed with costs this appeal of a decision of the Tax Court of Canada related to liability by an Indian for taxes of income derived from fishing in coastal waters. I issued a timetable for written disposition of the Respondents' bill of costs.

[2] The Appellant did not file any materials in response to the Respondents' materials. 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.

[3] The bill of costs included a claim under counsel fee item 13(a) for preparation for hearing. As my findings in paragraph 10 of *Gardner v. Canada (A.G.)*, [2008] F.C.J. No. 284 (A.O.) indicate that said fee item cannot be claimed for an appeal, but that something could be claimed under fee item 27, I will allow the claimed amount. There were other items which might have attracted disagreement, but the total amount claimed in the Respondents' bill of costs is generally arguable as reasonable within the limits of the award of costs and is allowed as presented at \$4,232.97.

“Charles E. Stinson”
Assessment Officer

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-48-06

STYLE OF CAUSE: VAN DUMONT v. HMQ

ASSESSMENT OF COSTS IN WRITING WITHOUT PERSONAL APPEARANCE OF THE PARTIES

REASONS FOR ASSESSMENT OF COSTS: CHARLES E. STINSON

DATED: May 14, 2009

WRITTEN REPRESENTATIONS:

n/a FOR THE APPELLANT
(self-represented)

Ms. Nadine Taylor Pickering FOR THE RESPONDENTS

SOLICITORS OF RECORD:

n/a FOR THE APPELLANT
(self-represented)

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