

Docket: 2003-1401(IT)G

BETWEEN:

MARK WELFORD,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

**CERTIFICATE OF COSTS**

I CERTIFY that I have taxed the party and party costs of the Respondent in this proceeding under the authority of subsection 153(1) of the *Tax Court of Canada Rules* (General Procedure) and I ALLOW THE SUM of \$4,284.46.

Signed at Ottawa, Canada, this 27th day of June 2007.

"Alan Ritchie"

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Taxing Officer

Citation: 2007TCC385  
Date: 20070627  
Docket: 2003-1401(IT)G

BETWEEN:

MARK WELFORD,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

### **REASONS FOR TAXATION**

Alan Ritchie, T.O., T.C.C.

[1] This matter came on for hearing by way of a telephone conference call on Tuesday June 26, 2007. It follows an Order of the Honourable Chief Justice Bowman of this Court dated October 31, 2006, which adjourned the motion *sine die*, with costs to the Respondent in any event of the cause.

[2] The Respondent was represented by Mr. Ifeanyi Nwachukwu, and the Appellant represented himself.

[3] The Appellant disputed three items on the Respondent's Bill of Costs.

[4] TWO SUBPOENAS: The above mentioned Order followed a hearing before the Honourable Chief Justice in Toronto on October 25<sup>th</sup>, 2006 which involved a Motion to Dismiss brought by the Respondent. The Respondent had served Mr. Welford, the Appellant, with a subpoena in order to ensure he would appear as a witness at the hearing.

[5] Mr. Welford argued that he had to be present in any event, that it was his appeal before the Court, and that to serve him with a subpoena was "a waste of time, money and effort" and he believed it should be taxed off. He also noted that

there was a subpoena issued to an employee of TD Canada Trust who not only was not called as a witness, but was not present at the hearing. He believed this amount should be taxed off as well.

[6] Mr. Nwachukwu took the position that it was not unusual for the Appellant to be so served, and that in fact it was the only way to ensure that he be compelled to be present to be examined, and that the amount should be allowed. With respect to the second subpoena, he stated that there was no evidence that the bank employee was not physically present at the hearing, and that the fact she was not called was immaterial.

[7] I agree with Counsel for the Respondent with respect to the subpoena for the bank employee. Whether or not she ultimately presented herself or was called as a witness, the amount claimed in the Bill of Costs is a proper one and I will allow it. However, I cannot agree with his position with respect to the subpoena served on the Appellant. It is the Appellant's appeal before the Court, and one must presume that he/she will be present to move matters forward. Had the Appellant not appeared at the hearing, the Court would have dealt with the matter at that point. If there were extenuating circumstances in this instance which obliged the Respondent to proceed as they did, they were not brought forward to me. I will disallow the amount of \$165.75 for service of the subpoena on Mr. Welford.

[8] PHOTOCOPIES: The Respondent claimed 545 copies at \$0.20 per page for a total of \$109.00 as noted in an Affidavit of Disbursements of Janice Joiner of the Department of Justice. This was for the photocopies made in relation to the hearing of the Motion.

[9] Mr. Welford questioned the purpose of the photocopies, and that whatever material it might be was not submitted to the Court nor to him. He allowed that the copies were likely produced, however that the amount claimed should be disallowed as they were not directly used at the hearing. Mr. Nwachukwu referred me to the aforementioned Affidavit and submitted that this was a proper claim.

[10] As a general practice, law firms and the Department of Justice track the number of photocopies of documents made with respect to a particular file, and Tariff B of the Rules of the Court allow an amount of \$0.20 per page. Such claims for copies made, accompanied by an Affidavit of Disbursements, are regularly allowed on a Bill of Costs and I have no reason to believe they should not be allowed in this instance.

[11] The Respondent's Bill of Costs in the amount of \$4,450.21 is taxed, and \$4,284.46 is allowed.

Signed at Ottawa, Canada, this 27th day of June 2007.

"Alan Ritchie"

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Taxing Officer

CITATION:

COURT FILE NO.: 2003-1404(IT)G

STYLE OF CAUSE: MARK WELFORD AND HER MAJESTY  
THE QUEEN

PLACE OF HEARING: ,

DATE OF HEARING: ,

REASONS FOR JUDGMENT BY:

DATE OF JUDGMENT: ,

APPEARANCES:

:  
:

COUNSEL OF RECORD:

For the :

Name:

Firm:

For the Respondent:

John H. Sims, Q.C.  
Deputy Attorney General of Canada  
Ottawa, Canada