

Docket: 2008-489(IT)G

BETWEEN:

LYNDA BERNIER,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

[OFFICIAL ENGLISH TRANSLATION]

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Taxation heard by telephone conference call on January 5, 2011  
Before: Johanne Parent, Taxing Officer

Appearances:

Counsel for the appellant:

Denis Tremblay

Counsel for the respondent:

Luc Vaillancourt

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**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 \$2,926.00.

Signed at Toronto, Ontario, this 14th day of January 2011.

"Johanne Parent"

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Taxing Officer

Translation certified true  
on this 15th day of February 2011  
Margarita Gorbounova, Translator

Citation: 2011 TCC 24  
Date: January 14, 2011  
Docket: 2008-489(IT)G

BETWEEN:

LYNDA BERNIER,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

[OFFICIAL ENGLISH TRANSLATION]

### **REASONS FOR TAXATION**

Johanne Parent, Taxing Officer

[1] On February 12, 2010, the Court (Honourable Justice Angers) dismissed the appeal from the notice of assessment number 30458 made under the *Income Tax Act*, with costs. The taxation of the Bill of Costs was heard by telephone conference call on Wednesday, January 5, 2011. The appellant was represented by Denis Tremblay and the respondent by Luc Vaillancourt.

[2] During the taxation hearing, counsel for the respondent indicated that the amounts claimed reflected those found in Tariffs A and B of Schedule II of the *Tax Court of Canada Rules (General Procedure)* and that they were all justified and in line with the Court minutes books.

[3] Counsel for the appellant indicated that she was not disputing the amount requested under Tariff A for the costs of witness Bonenfant, the costs claimed under paragraphs 1(1)(g) and (h) of Tariff B and the disbursements. Those amounts will therefore be allowed as claimed.

[4] The amounts claimed under paragraphs 1(1)(a), (b), (c), (e) and (i) of Tariff B are all being disputed. More specifically, the appellant is challenging the amount claimed under paragraph 1(1)(a) since no travel or Court session were required for the services provided and since all the services provided before the examination for discovery were provided in writing. As for paragraph 1(1)(b), counsel for the appellant claimed to know nothing about the documents that had apparently been discovered. In regard to the amounts claimed under paragraph 1(1)(c), the appellant submits that the examination for discovery was done in writing, and, accordingly,

paragraph 1(1)(c) does not apply. With regard to time spent on the taxation hearing, the amount claimed is not reimbursable because the taxation was done by conference call. The same argument would apply to preparation for and attendance at a status hearing (paragraph 1(1)(e)), which was allegedly done by conference call. As for costs related to the services provided after the judgment, the appellant stated that she did not know what those services were.

[5] In response, counsel for the respondent submits that paragraph 1(1)(a) covers all services provided before the examination for discovery, particularly, the Reply to the Notice of Appeal found in the Court file. As for the claim under paragraph 1(1)(b), it covers discovery of documents such as the respondent's list of documents filed with the Court on May 20, 2009. Under paragraph 1(1)(c), the respondent submitted that the examination for discovery was done in writing but still required a lawyer's work. As for the taxation of costs, documents were prepared and a hearing took place with counsel for both parties and a taxing officer present. With respect to costs claimed under paragraph 1(1)(e), it is submitted that a status hearing was prepared and took place by conference call. As for the amount claimed under paragraph 1(1)(i), the respondent submits that services after judgment included communicating with the client and the report prepared for the client.

[6] I note that the expenses claimed in the Bill of Costs for services or counsel are those provided for in Tariff B under the appropriate category. From reading the Reply to the Notice of Appeal filed and served by the respondent on September 18, 2008, I find the claim for services prior to examination for discovery to be justified. The costs claimed for the discovery of documents are also allowed in light of the work carried out on the list of documents produced by the respondent under the Rules of this Court on May 20, 2009. The costs claimed for services or counsel under paragraph 1(1)(c) for the examination for discovery and the taxation of costs are allowed. In fact, I am of the opinion that, even though the examination was done in writing, time and effort were put in to preparing, communicating and following up on it. As for the taxation of costs, time and effort were required to prepare the Bill of Costs and to gather and organize supporting documents. With respect to the taxation hearing, it took place, and the length of the parties' submissions had no impact on the amount stipulated in Tariff B. Under paragraph 1(1)(e), costs are claimed for preparation for and attendance at a status hearing. In that regard, on March 10, 2009, the Court issued a Notice of Status Hearing, setting April 14, 2009, as the date for a conference call with the parties. On that date and with the parties' consent, the Court made an order indicating the next steps and setting a tentative hearing date for the case. It is not disputed that the conference call took place. In my opinion, hearing a case by conference call instead

of in person does not require less work and preparation. For that reason, the costs claimed will be allowed. As for services after judgment, the explanations provided by counsel for the respondent justify the costs claimed.

[7] The respondent's Bill of Costs is taxed and allowed in the amount of \$2,926.00.

Signed at Toronto, Ontario, this 14th day of January 2011.

"Johanne Parent"

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Taxing Officer

Translation certified true  
on this 15th day of February 2011  
Margarita Gorbounova, Translator

CITATION: 2011 TCC 24  
COURT FILE NO.: 2008-489(IT)G  
STYLE OF CAUSE: LYNDA BERNIER AND THE QUEEN

PLACE OF HEARING BY  
CONFERENCE CALL: Toronto, Ontario

DATE OF HEARING BY  
CONFERENCE CALL: January 5, 2011

REASONS FOR TAXATION BY: Johanne Parent, Taxing Officer

DATE OF TAXATION: January 14, 2011

APPEARANCES:

Counsel for the appellant: Denis Tremblay  
Counsel for the respondent: Luc Vaillancourt

COUNSEL OF RECORD:

For the appellant:

Name: Denis Tremblay

Firm: Tremblay & Tremblay, Avocats  
Matane, Quebec

For the respondent:

Myles J. Kirvan  
Deputy Attorney General of Canada  
Ottawa, Canada