



Date: 19980928

Docket: T-245-86

OCT 15 1998

BETWEEN:

SHIRLEY LARDEN,

Plaintiff / Appellant,

- and -

HER MAJESTY THE QUEEN, THE MINISTER OF
INDIAN AND NORTHERN AFFAIRS OF CANADA,
MARVIN ANDREW JOE, DAVID JAMES JOE,
EDITH BAIRD, NORMA JACOBS, LEILEAN KOLLER,
BRIAN CARDINAL, RENE CARDINAL, JEANNE CARDINAL,
CINDY WATSON AND H. ERVIN,

Defendants,

- and -

THE MINISTER OF INDIAN AND NORTHERN
AFFAIRS OF CANADA AND H. ERVIN,

Respondents.

ASSESSMENT OF COSTS - REASONS

Charles E. Stinson
Assessment Officer

[1] This action involves a claim by the Plaintiff, Shirley Larden, to either all of or to a further share of the Estate of her father, Simon Joe. The relevant Defendants presenting Bills of Costs are the siblings and heirs of siblings of the Plaintiff. By Order

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dated April 1, 1998, the Prothonotary, John A. Hargrave, struck the action, without leave to amend, with costs of the motion to the Defendants and permission to the parties to speak to costs of the action. On April 30, 1998, the Defendants filed a Bill of Costs and supporting affidavit of Darwin Hanna sworn April 29, 1998. The Defendants filed Solicitors' Certificates of Service on May 20, 1998.

[2] On May 29, 1998, the Prothonotary, by Order silent on costs, denied the Plaintiff's motion for an extension of time to appeal. The Reasons dated May 29, 1998, provided for costs. On June 24, 1998, the Defendants filed another Bill of Costs and supporting affidavit of Darwin Hanna sworn June 17, 1998. On June 24, 1998, I directed counsel for the Defendants to write to the Plaintiff setting out a timetable (the last deadline being August 18, 1998) for service and filing of all materials by both sides. The Defendants filed a Solicitor's Certificate of Service on June 29, 1998. The Plaintiff did not file any materials in response to either Bill of Costs.

[3] The first Bill of Costs included 2.5 units for appearance, per hour, on a motion under item number 6. Consistent with Tariff B2(2), I allow 4 units in total for an appearance of approximately 2½ hours. This Bill also claims 1 unit for services after judgment. Ordinarily, I would give an Order with costs striking an action, without leave to amend, a broad reading and assess a unit for this item. However, the Prothonotary expressly distinguished costs of the action from those of the application. The Defendants did not follow up on this issue. Therefore, I remove the single unit presented. The

materials filed do not persuade me to interfere further. This Bill of Costs, presented at \$1,625.54, is assessed and allowed at \$1,682.54.

[4] As for the second Bill, I again remove the unit claimed under item number 25 for services after judgment. I will add one unit, however, to the claim under item number 26 for the assessment of costs. This is consistent with the Tariff and the Defendants' claim for this item in their first Bill. As above, I will not interfere further. This Bill of Costs, presented at \$588.69, is assessed and allowed at \$588.69.

(Sgd.) "Charles E. Stinson"
Assessment Officer

Dated at Vancouver, B.C., this 28th day of September, 1998

NAMES OF COUNSEL AND SOLICITORS OF RECORD

STYLE OF CAUSE: SHIRLEY LARDEN

- and -

HER MAJESTY THE QUEEN et al.

COURT NO.: T-245-86

ASSESSMENT IN WRITING WITHOUT PERSONAL APPEARANCE OF PARTIES

ASSESSMENT OF COSTS - REASONS BY: CHARLES E. STINSON
ASSESSMENT OFFICER

DATE OF REASONS: September 28, 1998

SOLICITORS OF RECORD:

Ms. Alisa Noda
Burnaby, B.C.

for Plaintiff / Appellant

Callison & Hanna
Vancouver, B.C.

for Defendants Marvin Andrew
Joe et al.

Mr. Morris Rosenberg
Deputy Attorney General
of Canada
Ottawa, Ontario

for Defendants Her Majesty
the Queen et al.

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