

Date: 20070713

Docket: T-831-06

Citation 2007 FC 747

BETWEEN:

ROBERT LAVIGNE

Plaintiff

and

MR. ROBERT PEPIN and CANADA POST CORPORATION

Defendants

ASSESSMENT OF COSTS- REASONS

W. DOYLE
Assessment Officer

[1] The defendants filed a notice of motion requesting their costs in respect of these proceedings. Mr. Justice de Montigny rendered a decision dated January 16, 2007 stating:

“...the defendants be granted their costs in these proceedings; these costs shall be assessed in accordance with the middle rate found under Column III of Tariff B, plus disbursements.”

[2] On May 18, 2007 the defendants filed their Bill of Costs with a supporting affidavit requesting the assessment be done in writing without personal appearance.

[3] On June 13, 2007 I issued a timetable for reply and rebuttal materials. To date the plaintiff has not filed a written reply.

[4] I reviewed the file, the court database abstracts and the Bill of Costs in these proceedings. The Bill of Costs is presented claiming; item 5 – preparation and filing motion to strike plaintiff's statement of claim (five units), item 6 – appearance before the Court with respect to the above mentioned motion (7 hours x two units), item 5 – preparation and filing responding motion record in response to plaintiff's motion for interim injunction (five units), item 6 – appearance before the Court with respect to the above-mentioned motion (1 hour x two units), item 5 – preparation and filing responding motion record in response to plaintiff's motion requesting the presence of the Canadian Union of Postal Workers to debate on interpretation of the Collective Agreement and other relief (5 units), item 5 – preparation and filing motion materials regarding defendant's request for an order regarding costs (five units), item 26 – assessment of costs (four units), item 28 – services of a paralegal for the preparation of motion material regarding defendant's request for an order regarding costs (50% of five units) and item 28 – services of a paralegal for the preparation of the Bill of Costs (50% of four units). I accept these units as reasonable in the circumstances and as previously noted no objection has been filed. I will allow the above assessable services as requested with the exception of Item 28.

[5] In my respectful opinion, it would be improper to indemnify counsel for services of a paralegal when a claim is already awarded for these items (item 5 - preparation and filing motion materials regarding defendant's request for an order regarding costs (five units) and item 26 – assessment of costs (four units)). Consequently, I must reduce the number of units for both item 28 matters (50% of five units and 50% of four units) no units will be allowed under item 28.

[6] Based on the foregoing reasoning the total assessable service amount will be reduced from the requested \$6,084.93 to an allowed total assessable service amount of \$5, 469.60.

[7] Disbursements, appearing reasonable for this type of litigation and being established by the affidavit of Suzanne Raiche which is accompanied with a copy of the printout from the accounting records evidencing the disbursements incurred, are awarded in the amount of \$1, 784.00.

[8] The bill of costs presented at \$7,868.93 is accordingly assessed and allowed in the amount of \$7,253.60. A certificate is issued in the Federal Court proceeding for \$7,253.60.

“Willa Doyle”
Assessment Officer

Fredericton, New Brunswick
July 13, 2007

FEDERAL COURT
NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: T-831-06

STYLE OF CAUSE: ROBERT LAVIGNE -and-
CANADA POST CORPORATION & ROBERT PEPIN

ASSESSMENT OF COSTS IN WRITING WITHOUT PERSONAL APPEARANCE OF
THE PARTIES

ASSESSMENT OF COSTS -
REASONS BY: Willa Doyle, Assessment Officer

DATED: July 13, 2007

WRITTEN REPRESENTATIONS BY:

Richard Desgagnés
Azim Hussain FOR THE DEFENDANTS

SOLICITORS OF RECORD:

Ogilvy Renault LLP FOR THE DEFENDANTS
Montréal, Québec