

Federal Court



Cour fédérale

**Date: 20110922**

**Docket: T-725-09**

**Citation: 2011 FC 1090**

[ENGLISH TRANSLATION]

**Toronto, Ontario, September 22, 2011**

**PRESENT: Johanne Parent, Assessment Officer**

**BETWEEN:**

**ERIC TURCOTTE**

**Applicant**

**And**

**ATTORNEY GENERAL OF CANADA**

**Respondent**

**REASONS FOR ASSESSMENT OF COSTS**

[1] On January 19, 2010, the Court dismissed the application for judicial review, with costs in favour of the respondent. On April 28, 2011, the respondent submitted its bill of costs to the Court. Directions were given on May 24, 2011, informing the parties that the assessment of costs would proceed in writing and of the time limit for filing submissions.

[2] To support its bill of costs, the respondent submitted the affidavits of Vanessa Oliva. The applicant did not file any submissions or requests to extend the time with the Court Registry.

[3] Consequently, I will assess the bill of costs pursuant to the *Federal Courts Rules*, Tariff B and the observations of my colleague in *Dahl v. Canada*, 2007 FC 192 (OT) at paragraph 2:

Effectively, the absence of any relevant representations by the Plaintiff, which could assist me in identifying issues and making a decision, leaves the bill of costs unopposed. My view, often expressed in comparable circumstances, is that the *Federal Courts Rules* do not contemplate a litigant benefiting by an assessment officer stepping away from a position of neutrality 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.

[4] With respect for the preceding, I will therefore consider the legitimacy and compliance of the services claimed in light of the Court decision and Tariff B of the *Federal Courts Rules*. The units claimed under Tariff B for preparation and filing of the defence (item 2), preparation for the trial (item 13), attendance in Court (item 14), services after judgment (item 25) and assessment of costs (item 26) are not disputed and are considered reasonable and will therefore be allowed as claimed.

[5] However, the fees claimed under item 7 for discovery of documents cannot be allowed. This service refers to Rules 222 to 232 of the *Federal Courts Rules* in PART 4 – Actions of the Rules. With no other argument to justify such a request as part of this judicial review, the claim under item 7 will not be allowed.

[6] The disbursements claimed in the respondent's bill of costs are not disputed, are considered necessary and reasonable charges to the conduct of this matter and will be allowed as claimed.

[7] The respondent's bill of costs is allowed in the amount of \$3,992.50.

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“Johanne Parent”  
Assessment Officer

Federal Court



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**FEDERAL COURT**

**SOLICITORS OF RECORD**

**DOCKET:** T-725-09

**STYLE OF CAUSE:** ERIC TURCOTTE v. THE ATTORNEY  
GENERAL OF CANADA

**ASSESSMENT OF COSTS IN WRITING WITHOUT PERSONAL APPEARANCE OF  
THE PARTIES**

**REASONS FOR ASSESSMENT BY:** JOHANNE PARENT, Assessment Officer

**DATED:** SEPTEMBER 22, 2011

**WRITTEN SUBMISSIONS:**

No written submissions FOR THE APPLICANT

Michèle Lavergne FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Labelle, Boudreault, Côté et Associés FOR THE APPLICANT  
Montréal, Québec

MYLES J. KIRVAN FOR THE RESPONDENT  
Deputy Attorney General of Canada