

Federal Court of Appeal



Cour d'appel fédérale

Date: 20110224

Docket: A-77-09

Citation: 2011 FCA 68

Present: JOHANNE PARENT, Assessment Officer

BETWEEN:

CLOTILDE BÉRUBÉ

Appellant

and

HER MAJESTY THE QUEEN IN RIGHT OF CANADA

and

THE ATTORNEY GENERAL FOR QUEBEC

Respondents

Dealt with in writing without appearance of parties.

Certificate of costs delivered at Toronto, Ontario, on February 24, 2011.

REASONS FOR ASSESSMENT OF COSTS BY:

Johanne Parent, Assessment Officer

Federal Court of Appeal



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REASONS FOR ASSESSMENT OF COSTS

JOHANNE PARENT, Assessment Officer

[1] On October 20, 2010, the Court dismissed the appeal with costs. Directions were issued and sent to the parties on November 30, 2010 informing them that this assessment of costs would proceed in writing and of the deadline to file representations.

[2] Counsel for the respondent, Her Majesty the Queen in Right of Canada, filed in support of the Bill of Costs the affidavit of Stéphanie Dion within the prescribed timeframe. No further

representations were received by the Registry of the Court, nor was any request to extend the time to file submissions.

[3] I will now proceed with the assessment of costs taking into consideration the observations of my colleague in *Dahl v Canada*, 2007 FC 192(AO) 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] In view of the services claimed under Tariff B of the *Federal Courts Rules*, the counsel fees for the Memorandum of fact and law (Item 19), the hearing of the appeal (Item 22), the services after judgment (Item 25) and the assessment of costs (Item 26) will be allowed as claimed.

[5] I examined the disbursements claimed by the respondent, Her Majesty the Queen in Right of Canada, along with the supporting affidavit. I consider them necessary charges to the conduct of this matter. The amounts are reasonable and are therefore allowed.

[6] The Bill of Costs of the respondent, Her Majesty the Queen in Right of Canada, is allowed for a total amount of \$2,109.94

"Johanne Parent"
Assessment Officer

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-77-09

STYLE OF CAUSE: CLOTILDE BÉRUBÉ v HER MAJESTY THE QUEEN
IN RIGHT OF CANADA AND THE ATTORNEY
GENERAL FOR QUEBEC

MOTION DEALT WITH IN WRITING WITHOUT APPEARANCE OF PARTIES

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

DATED: February 24, 2011

WRITTEN REPRESENTATIONS BY:

N/A FOR THE APPELLANT (Self-
Represented)

Stéphanie Dion FOR THE RESPONDENT (Her
Majesty the Queen in Right of
Canada)

N/A FOR THE RESPONDENT (The
Attorney General for Quebec)

SOLICITORS OF RECORD:

N/A FOR THE APPELLANT

Myles J. Kirvan FOR THE RESPONDENT (Her
Deputy Attorney General of Canada Majesty the Queen in Right of
Canada)

BERNARD, ROY (JUSTICE-QUEBEC) FOR THE RESPONDENT (The
Minister of Justice of Quebec Attorney General for Quebec)
Montreal, Quebec