

Docket: 2006-500(GST)I

BETWEEN:

CHRISTIAN-DANIEL LANDRY,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

[OFFICIAL ENGLISH TRANSLATION]

Appeal heard on October 19 and 23, 2007, and on February 12, 2009,
at Ottawa, Ontario.

Before: The Honourable Justice B. Paris

Appearances:

For the appellant:	The appellant himself
Counsel for the respondent:	Benoît Denis

JUDGMENT

The appeal from the assessment under the *Excise Tax Act* is allowed in part on the basis that, during the period from July 13, 2002, to March 31, 2003, the appellant was a small supplier, and for the period from April 1, 2003, to September 6, 2003, the appellant was entitled to input tax credits in the amount of \$323.71.

The appellant is awarded costs in the fixed sum of \$2,000.

It is ordered that the appellant's \$100 filing fee be reimbursed.

Signed at Ottawa, Canada, this 17th day of March 2009.

"B. Paris"

Paris J.

Translation certified true
on this 21st day of September 2009
Margarita Gorbounova, Translator

Citation: 2009 TCC 154
Date: 20090317
Docket: 2006-500(GST)I

BETWEEN:

CHRISTIAN-DANIEL LANDRY,

Appellant,

and

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[OFFICIAL ENGLISH TRANSLATION]

REASONS FOR JUDGMENT

Paris J.

[1] After delivering my reasons for judgment from the bench at the hearing, I advised the parties that I would suspend the issuance of the judgment to give them an opportunity to establish the amount of the input tax credits (ITCs) to which the appellant was entitled for the period between April 1 and September 6, 2003. I added that, if the parties could not come to an agreement, I would give the appellant the opportunity to reopen the case so that he can prove the ITC amount.

[2] Unfortunately, the parties were unable to agree on the amount, and the hearing resumed. It then became clear that the parties could not agree on the ITC amount because of a misunderstanding about the period for which there was an adjustment. I do not know what caused the misunderstanding nor whether one party was more to blame for it than the other. In the end, the parties agreed that the appellant was entitled to an additional \$323.71 in ITCs for the period in question.

[3] The parties also made submissions with respect to costs.

[4] The appellant argued that the costs should reflect the supposedly unjustifiable conduct of the Minister and the respondent in this case, including the

Revenu Québec employees' refusal to assign him a Goods and Services Tax (GST) registration number. He also maintained that Revenu Québec had punished him by seizing his bank account after he had refused to accept a settlement offer and that counsel responsible for the case had been negligent and careless. He stated that five counsel had worked on the case for the respondent and that none of them knew what his or her predecessor had done.

[5] The appellant, a lawyer, requested that the Court award him a fixed sum in lieu of taxed costs, which would include \$8,000 for the time he had spent preparing the appeal as well as at least \$4,729 in fees he had to pay to his accountant for his assistance throughout the entire period, starting with his reassessment and ending with the conclusion of the appeal hearing. The appellant stated that, although he had represented himself, he should be entitled to costs for his work on the case. In addition, he asked to be reimbursed for the amount that he had paid his accountant, since the accountant's help and his appearance as a witness were essential to the outcome of the case. The appellant also stated that he and his accountant had spent time trying to resolve the ITC issue with the respondent and asked me to take that fact into account when awarding costs.

[6] In regard to whether the appellant should be awarded costs in the amount used for solicitor–client costs, it is accepted that costs on a solicitor–client basis are usually awarded when a party has displayed reprehensible, scandalous or outrageous conduct (*Young v. Young*, [1993] 4 S.C.R. 3, at page 134).

[7] I am not satisfied that the evidence showed that the conduct of the respondent's counsel in this case was reprehensible, scandalous or outrageous. Furthermore, the fact that the appeal was allowed only in part shows that part of the respondent's claim was unfounded in law.

[8] With respect to the conduct of Revenu Québec employees before the appeal, I found that the refusal to assign a new GST registration number to the appellant was unjustified, but there is nothing to suggest that it was in bad faith. In the same vein, nothing suggests to me that the appellant's bank account was seized in bad faith or without authorization.

[9] I accept that the appellant is entitled to costs for the time and effort that he put in to preparing and presenting his appeal. In *Sherman v. The Queen*, 2003 FCA 202, the Federal Court of Appeal ruled that a self-represented litigant who is a lawyer is entitled to "a moderate allowance to cover his time and effort in preparing and presenting his case", and in its subsequent reasons it ruled that an

award of costs "can, at best, equal, but should not exceed, what would have otherwise been paid to him if he had been represented by counsel", that is, party and party costs (2004 FCA 29).

[10] Regarding the sums the appellant paid to his accountant, some of them covered activities that took place before the Notice of Appeal was filed, while others covered the accountant's assistance in preparing and presenting the appeal. Since the sum that I will award the appellant covers the time and effort that he put into preparing and presenting his appeal, it is not necessary to award an additional amount to cover the same item for his accountant. In addition, the fees that the accountant is charging for preparing for the hearing (\$1,125) and for participating in it (\$1,200) are too high considering that he was in the witness box only for about 45 minutes. Insofar as those sums relate to the time that the accountant spent preparing to testify, they do not seem moderate. Altogether, only a small portion of the accountant's fees constitutes acceptable costs.

[11] In light of all the factors mentioned above, I award a fixed sum of \$2,000 to the appellant in lieu of taxed costs.

Signed at Ottawa, Canada, this 17th day of March 2009.

"B. Paris"

Paris J.

Translation certified true
on this 21st day of September 2009
Margarita Gorbounova, Translator

CITATION: 2009 TCC 154

COURT FILE NO.: 2006-500(GST)I

STYLE OF CAUSE: CHRISTIAN-DANIEL LANDRY AND
HER MAJESTY THE QUEEN

PLACE OF HEARING: Ottawa, Ontario

DATES OF HEARING: October 19 and 23, 2007, and
February 12, 2009

REASONS FOR JUDGMENT BY: The Honourable Justice B. Paris

DATE OF JUDGMENT: March 17, 2009

APPEARANCES:

For the appellant:	The appellant himself
Counsel for the respondent:	Benoît Denis

COUNSEL OF RECORD:

For the appellant:

Name:

Firm:

For the respondent: John H. Sims, Q.C.
Deputy Attorney General of Canada
Ottawa, Canada