

Agri Resource Mgt. 2001 Ltd.

APPELLANT

- and -

Saskatchewan Crop Insurance Corporation

RESPONDENT

No one appearing for the Appellant
Randall Klein for the Respondent

**Taxation before Melanie A. Baldwin, Q.C.
Registrar, Court of Appeal for Saskatchewan
August 30, 2018**



Background

[1] On May 10, 2017, the Court dismissed this appeal with costs to the respondent "assessed in the usual manner." A formal judgment was issued on July 20, 2017 (after the respondent complied with Rule 57.1 of *The Court of Appeal Rules*). The formal judgment includes an order that the appellant forthwith pay the respondent's taxed costs on appeal as determined under column 4 of The Court of Appeal Tariff of Costs.

[2] An appointment for taxation was taken out on behalf of the respondent made returnable before me on August 30, 2018. The respondent subsequently filed proof of service indicating that the appointment and draft bill of costs were served on counsel for the appellant on July 23, 2018.

[3] On August 28, 2018 I contacted counsel for the appellant and the respondent to ask whether they would be appearing in person or by telephone for the taxation hearing. Counsel for the respondent responded on August 28, 2018 that he would appear by telephone. On August 29, 2018, the law firm representing the appellant advised that counsel for the appellant was out of the office until August 30, 2018 and was not available for the taxation hearing in any event on August 30, 2018 due to another court commitment.

[4] On August 29, 2018 I advised the law firm representing the appellant that "If counsel agree that an adjournment is necessary, they simply need to advise me of that and we can discuss alternate dates." On August 30, 2018 counsel for the appellant responded "We have no instructions on such short notice and ask that you assess the account with the critical eye that you would bring to bear whether you have submissions in opposition or not."

[5] The taxation hearing proceeded as scheduled at 10:00 a.m. on August 30, 2018 with counsel for the respondent appearing by telephone. This fiat is my decision on the taxation.

Proposed Bill of Costs

[6] The proposed bill of costs lists the following fees under column 4 of the Court of Appeal Tariff of Costs:

3	Fee to Respondent on receipt of Notice of Appeal	\$ 200
7	Supplementary Appeal Book	\$1250
8	Preparation of Factum	\$5000
9	All other preparation for hearing	\$1250
10	Appearance to present argument on appeal before Court of Appeal	\$1200
11	Preparing formal judgment	\$ 400
12	Correspondence	\$ 400
13	Preparation of Bill of Costs	\$ 250
14	Taxation of Bill of Costs	\$ 125

The fees claimed total \$10,075.

[7] The proposed bill of costs also claims disbursements of \$485.62 composed of \$406.10 for photocopying, scanning and printing, \$26 for land titles searches, \$33.52 for courier fees and \$20 for issuing the formal judgment. No affidavit of disbursements or other voucher was filed in support of the claimed disbursements.

Issues

[8] I have reviewed the proposed bill of costs. The tariff fee items claimed fall under column 4 of the tariff. This is the column contemplated in the formal judgment. The claims under items 3, 8, 9, 11, 12, 13 and 14 listed above are straightforward and non-controversial.

[9] The respondent claims a full day for the hearing of the appeal under item 10 listed above. The hearing started at 10:00 a.m. and ended after 2:30 p.m. so this claim is appropriate.

[10] At the taxation hearing, I asked counsel for the respondent to address the following specific issue relating to fees:

- Was the supplementary appeal book necessary and is the respondent entitled to claim the full appeal book tariff fee amount for the supplementary appeal book?

[11] As noted above, no affidavit of disbursements or other voucher was filed in support of the claimed disbursements. I asked counsel for the respondent to address the disbursements claimed in light of this.

Argument and Analysis

[12] Counsel for the respondent argued that the material included in the supplementary appeal book was relevant to and necessary for the purposes of the appeal. Counsel noted that the appeal was taken from a decision to dismiss the appellant's action against the respondent for want of prosecution and that the appeal book filed by the appellant therefore contained material filed in relation to various interlocutory applications within that action. In relation to one particular interlocutory application, the appeal book included only some of the material. The supplementary appeal book contained other material relating to that application which the respondent felt the Court would need to fully understand the material included in the appeal book and the issues in the appeal.

[13] Counsel noted that there was only one tariff fee item relating to an appeal book and the respondent's claim for the supplementary appeal book was therefore for that tariff fee item.

[14] After reviewing the decision from the Court of Queen's Bench, the notice of appeal and the decision of the Court and in light of the material included in the appeal book, I am satisfied that the material contained in the supplementary appeal book was relevant to and necessary for the purposes of the appeal. Having said this, I am not inclined to allow the full tariff appeal book amount (\$1250) for the supplementary appeal book. The appeal book is 612 pages long. The supplementary appeal book is less than 100 pages long. There is no indication on the file that the respondent sought to have the appellant file an amended appeal book before filing the supplementary appeal book on its own. I will allow the respondent to claim \$625 for the supplementary appeal book.

[15] I am able to assess some of the disbursements claimed without an affidavit of disbursements or other voucher. I can assess amounts claimed for photocopying, scanning and printing by reviewing the court file to verify page lengths for the material filed with the Court by the respondent. I have done this and I am satisfied that the amounts claimed for photocopying, scanning and printing are reasonable.

[16] Further, I am able to verify fees paid to the Court by consulting eCourt. I have consulted eCourt to verify that the respondent paid \$20 to issue the formal judgment. I have also identified another \$20 payment made by the respondent for issuing the appointment for taxation. Both of these disbursements are properly claimed.

[17] As for the remaining claimed disbursements (for land titles searches and courier), counsel for the respondent withdrew the respondent's claim for these disbursements in light of the lack of a voucher for these disbursements.

Decision

[18] The fees are therefore taxed as follows:

3	Fee to Respondent on receipt of Notice of Appeal	\$ 200
7	Supplementary Appeal Book	\$ 625
8	Preparation of Factum	\$5000

9	All other preparation for hearing	\$1250
10	Appearance to present argument on appeal before Court of Appeal	\$1200
11	Preparing formal judgment	\$ 400
12	Correspondence	\$ 400
13	Preparation of Bill of Costs	\$ 250
14	Taxation of Bill of Costs	\$ 125

The total fees allowed are \$9450.

[19] The disbursements for land titles searches and courier fees are taxed off. The \$20 fee for issuing the appointment for taxation is taxed on. The total disbursements allowed are \$446.10.

[20] The proposed bill of costs is therefore taxed and allowed at **\$9896.10**. The respondent may wish, for enforcement purposes, to prepare and file a certificate of taxation of costs in Form 11d in this amount for issuance.

DATED at Regina, Saskatchewan, this 31st day of August, 2018.



REGISTRAR – COURT OF APPEAL