

**CANADIAN HUMAN RIGHTS TRIBUNAL TRIBUNAL CANADIEN DES  
DROITS DE LA PERSONNE**

**JACQUELINE BROWN**

**Complainant**

**- and -**

**CANADIAN HUMAN RIGHTS COMMISSION**

**Commission**

**- and -**

**ROYAL CANADIAN MOUNTED POLICE**

**Respondent**

**RULING**

MEMBER: Dr. Paul Groarke 2006 CHRT 14  
2006/03/16

[1] The present case was remitted back to the Tribunal by Justice Hansen, on judicial review, to deal with any allowable expenses. The parties have been unable to reach agreement on two claims.

[2] I was originally concerned that these are new claims, which are not properly before me. Mr. Gordon has satisfied me, however, that this is not the case. It is merely that the hearing did not proceed to the stage where a proper itemization of expenses could be made.

[3] The first claim is for Ms. Brown's initial consultations with Mr. Finding. The Respondent opposes this, on the basis that the decision from Justice Hansen clearly holds that the Tribunal has no power to award costs for legal services provided by a lay person. Mr. Gordon's response is that the initial consultations come within an exception to the general rule regarding legal fees.

[4] The difficulty is that the exception applies to legal fees, which are only recoverable under Justice Hansen's ruling if they have been paid to a lawyer. At this point, I can only proceed on the assumption that Mr. Finding was providing legal services. It follows that his fees cannot be recovered. If Mr. Finding was providing some other kind of service, he will have to submit an affidavit outlining the nature of those services. This would be subject to cross-examination.

[5] The second matter is a claim for legal fees. This concerns the legal fees that Mr. Gordon charged the Complainant, in making submissions on the issue of damages. I agree with Mr. Gordon that I am bound by my earlier ruling here, in which I held that the Tribunal has the power to award costs for legal fees.

[6] The Respondent has nevertheless submitted that any claim for legal fees must follow the Federal Court Tariff. I followed this procedure in *Brooks v. Dept. of Fisheries and Oceans*, 2005 CHRT 26 (2005/07/12), primarily because it dealt with a complex claim for a large sum.

[7] The amount that Mr. Gordon is requesting is relatively small. The significant fact, however, is that it is contested. I agree with the Respondent that the Tariff should be used in cases where the claim is disputed. The alternative is to adopt an *ad hoc* approach, which is more haphazard and less attuned to the law in the area.

[8] The purpose of the Federal Court Tariff is to provide an orderly, principled framework in which disputed claims can be resolved. The provisions of the Tariff are in keeping with the general caselaw and offers a well-considered methodology, which would assist anyone in determining what costs are appropriate. I think it would be a mistake to ignore it.

[9] I would accordingly ask Mr. Gordon to submit a Bill of Costs, in accordance with the Federal Court Tariff, along with a letter justifying his claim. This should be submitted to the Tribunal by March 27<sup>th</sup>. The Respondent will have until April 7<sup>th</sup> to respond. The Complainant will then have until April 14<sup>th</sup> for any further submissions. If Mr. Gordon wishes to submit an affidavit from Mr. Finding, I am prepared to change the dates to accommodate that.

"Signed by"

Dr. Paul Groarke

OTTAWA, Ontario

March

16,

2006

#### PARTIES OF RECORD

TRIBUNAL FILE:	T769/1903
STYLE OF CAUSE:	Jacqueline Brown v. Royal Canadian Mounted Police
DATE AND PLACE OF HEARING:	March 8, 2006 Ottawa, Ontario

RULING OF THE TRIBUNAL DATED:	March 16, 2006
APPEARANCES:	
Charles Gordon	On behalf of the Complainant
Keitha Elvin-Jensen	On behalf of the Respondent