



Ottawa, Wednesday, November 13, 2002

File No. PR-2002-012

IN THE MATTER OF a complaint filed by K-W Leather Products Ltd. under subsection 30.11(1) of the *Canadian International Trade Tribunal Act*, R.S.C. 1985 (4th Supp.), c. 47;

AND FURTHER TO a determination made pursuant to subsection 30.16(1) of the *Canadian International Trade Tribunal Act* to award K-W Leather Products Ltd. its reasonable costs incurred in preparing and proceeding with the complaint.

ORDER

In a determination made on September 3, 2002, the Canadian International Trade Tribunal (the Tribunal), pursuant to subsection 30.16(1) of the *Canadian International Trade Tribunal Act*,¹ awarded K-W Leather Products Ltd. (K-W) its reasonable costs incurred in relation to preparing and proceeding with the complaint.

On September 23, 2002, K-W submitted to the Tribunal its claim for costs in the amount of \$15,160.91. The Department of Public Works and Government Services (PWGSC) filed comments on K-W's claim on October 15, 2002. On October 16, 2002, the Tribunal forwarded the comments to K-W and requested that it provide additional information on its claim for costs. K-W provided the additional information to the Tribunal on October 17, 2002. On October 21, 2002, the Tribunal forwarded the information to PWGSC for comment. On October 28, 2002, PWGSC verbally informed the Tribunal that it did not intend to submit additional comments and that it agreed to let the record stand.

K-W claimed a total of \$3,588.25 (GST included) in legal fees and disbursements. That amount represents 16.75 hours at \$200.00/hour for legal services and \$3.75 in disbursements. K-W claimed \$6,500.00 for in-house costs incurred in relation to preparing and proceeding with the complaint. That amount represents the work of one of its employees for 52.0 hours at \$125.00/hour. K-W claimed a total of \$4,256.80 (GST included) for two service providers, representing 32.0 hours at \$125.00/hour for one and 3.0 hours at \$80.00/hour for the other. Finally, K-W claimed a total of \$479.86 (GST and PST included) for disbursements and \$336.00 for travel expenses.

PWGSC submitted that the hourly rate of \$125.00 claimed by K-W for its representative is excessive and inconsistent with the Tribunal's *Procurement Cost Guidelines* (the Guidelines) and that the hourly rate is to be set with respect to the experience of the employee acting in the capacity of "a representative", as that term is defined in the Guidelines. It submitted that there is nothing in K-W's claim for costs to indicate that the representative has nine or more years of experience representing K-W before the Tribunal in procurement proceedings and that the appropriate rate would be \$85.00/hour. It further submitted that this approach is consistent with other recent Tribunal proceedings.²

1. R.S.C. 1985 (4th Supp.), c. 47.

2. PWGSC referred to File No. PR-2000-005, *Order* (13 March 2001) (CITT), File No. PR-2000-065, *Order* (23 October 2001) (CITT), File No. PR-2001-035, *Order* (4 September 2002) (CITT) and File No. PR-2001-038 *Order* (30 July 2002) (CITT).

Regarding the claim for services of one of K-W's service providers, PWGSC requested that K-W be asked to explain in greater detail and substantiate the qualifications, to indicate the nature of the service provided to K-W in this matter and, more particularly, to itemize and justify the 32.0 hours claimed.

With respect to travel expenses, PWGSC submitted that K-W should be required to provide further particulars of the travel, identifying the traveller and the attendees at the meetings in question. Finally, it submitted that disbursements by employees other than the employee who acted as K-W's representative should be disallowed.

In response to the Tribunal's request for additional information concerning one of its service providers, K-W submitted a letter that it received from the service provider attesting to his qualifications and the nature of the service provided to K-W. Further, in response to the Tribunal's request for additional information regarding its travel expenses, K-W submitted that the expenses were for its representative to meet with the service provider to prepare comments to the Government Institution Report.

Regarding the claim for legal fees and disbursements, the Tribunal is of the view that these costs are not costs for legal representation before the Tribunal, but are more akin to costs for advisory services, albeit legal in nature. These are supported by an invoice. The Tribunal is of the view that the total amount claimed for these costs is reasonable and consistent with the Guidelines and, therefore, allows the full amount claimed of \$3,588.25. With respect to the representative's fees, the Tribunal is of the opinion that an hourly rate of \$85.00 is appropriate for K-W's representative and, therefore, allows a claim of 52.0 hours at \$85.00/hour, for a total of \$4,420.00.

Regarding claims for the two service providers, the Tribunal finds that the costs are reasonable, supported by invoices and consistent with the Guidelines and, therefore, allows the full amount of \$4,256.80. With respect to disbursements, the Tribunal finds that these costs are reasonable, supported by invoices and consistent with the Guidelines and, therefore, allows the full amount of \$479.86.

The Tribunal is also of the view that the travel expenses are reasonable and consistent with the Guidelines and, therefore, allows the full amount of \$336.00.

In consideration of the above, the Tribunal hereby awards K-W costs in the amount of \$13,080.91 for preparing and proceeding with the complaint and directs PWGSC to take appropriate action to ensure prompt payment.

Richard Lafontaine
Richard Lafontaine
Presiding Member

Michel P. Granger
Michel P. Granger
Secretary