

Ottawa, Wednesday, August 18, 1999

File No.: PR-98-042

IN THE MATTER OF a complaint filed by Discover Training Inc. under subsection 30.11(1) of the *Canadian International Trade Tribunal Act*, R.S.C. 1985 (4th Supp.), c. 47;

AND IN THE MATTER OF a decision made by the Canadian International Trade Tribunal on May 17, 1999, pursuant to section 30.16 of the *Canadian International Trade Tribunal Act*, awarding Discover Training Inc. its reasonable costs incurred in relation to filing and proceeding with its complaint under Article 1015(6) of the *North American Free Trade Agreement*.

ORDER

INTRODUCTION

In a determination made on May 17, 1999, the Canadian International Trade Tribunal (the Tribunal) awarded Discover Training Inc. (Discover), pursuant to subsections 30.15(4) and 30.16(1) of the *Canadian International Trade Tribunal Act*,¹ its reasonable costs incurred in filing and proceeding with its complaint under Article 1015(6) of the *North American Free Trade Agreement*.²

On June 16, 1999, Discover submitted to the Tribunal a claim in the amount of \$7,939.08 in relation to filing and proceeding with its complaint. On July 8, 1999, Canada Post Corporation (Canada Post) sent written comments to the Tribunal with respect to Discover's claim. On July 13, 1999, Discover responded to Canada Post's comments.

COMPLAINT COSTS

Discover claimed amounts of \$7,811.00 in fees and \$128.08 in disbursements (including GST) that it incurred in pursuing this complaint. Discover claimed compensation for 18.25 days at a daily rate of \$400.00 for representative's fees. This number can be broken down as follows: 3.5 days for research; 7 days for complaint preparation; 3 days for the preparation of responses to the motion; and 4.75 days for document review.

The Tribunal has carefully examined Discover's claim and finds that the major portion of the fees do not relate to filing and proceeding with the complaint under Article 1015(6) of NAFTA. Dealing, first, with the fees, the Tribunal notes that, in its determination of May 17, 1999, it awarded Discover its reasonable cost incurred in relation to filing and proceeding with only that part of its complaint which related to Article 1015(6) of NAFTA. The fees that relate to the time spent by Discover's representative to file and proceed with its complaint under Article 1014(3) of NAFTA cannot be taken into account, as the Tribunal did not award costs in relation thereof. Accordingly, the fees for Discover's representative, associated with

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

2. 32 I.L.M. 289 (entered into force 1 January 1994) [hereinafter NAFTA].

the complaint and made in respect of Article 1015(6) of NAFTA, must be limited to the time required for the research, the preparation of the complaint and the document review under this ground of complaint only. In addition, the Tribunal cannot grant any fees in regard of the time spent by Discover's representative for the preparation of the motion, since the motion only related to the dismissed portion of the complaint.

In light of the above-noted facts, the Tribunal considers that an amount of \$500 for the representative's fees claimed by Discover is appropriate in the circumstances. The GST requested by Discover on those fees is not allowed, since the task was performed by an internal employee of the company. Accordingly, the total amount allowed for representative's fees is \$500.

In respect of the disbursements incurred by Discover, the company claimed an amount of \$128.08 (including GST) for the photocopy charges. As only the fees relating to the valid portion of the complaint can be claimed, the Tribunal is of the view that an amount of \$15.00 for the photocopies is reasonable.

Taking into account Canada Post's submission, as well as Discover's response and supporting information submitted, and applying the principles laid out in the *Procurement Cost Guidelines*, the Tribunal allows Discover \$500 for representative's fees and \$15 for disbursements.

CONCLUSION

The Tribunal hereby awards Discover costs in the amount of \$515 in relation to proceeding with its complaint and directs that Canada Post take appropriate action to ensure prompt payment.

Michel P. Granger
Michel P. Granger
Secretary

Raynald Guay
Raynald Guay
Presiding Member