

BETWEEN:

GORDON SAWYER

Complainant

- and -

CANADIAN HUMAN RIGHTS COMMISSION

Commission

- and -

CANADIAN BROADCASTING CORPORATION

Respondent

REASONS FOR DECISION

Decision No. 2

2001/08/24

PANEL: Roger Doyon, Chairperson

TRANSLATION

[1] On March 20, 1998, Gordon Sawyer filed a complaint with the Canadian Human Rights Commission ("the Commission") against his employer, the Canadian Broadcasting Corporation ("the CBC").

[2] In support of his complaint, Mr. Sawyer alleged that the CBC discriminated against him in violating the provisions of section 7 of the *Canadian Human Rights Act* ("the Act"), by refusing to continue to employ him owing to his disabilities (alcoholism and nervous breakdown).

[3] After investigation, the Commission referred the complaint to the Canadian Human Rights Tribunal on October 19, 2000, to hear the matter and render a decision.

[4] After consultation of all parties involved, the start of the hearing was set for July 9, 2001. On July 6, 2001, counsel for the Commission notified the complainant's counsel and the office of the Tribunal that the Commission was withdrawing from the case.

[5] At the hearing, on July 9, 2001, counsel for the Commission appeared before the Tribunal to state the position adopted by that party.

[6] He cited the provisions of section 51 of the Act, which state:

"In appearing at a hearing, presenting evidence and making representations, the Commission shall adopt such position as, in its opinion, is in the public interest having regard to the nature of the complaint."

[7] Counsel for the complainant objected to the Commission's withdrawal from the case on the ground that there was no justification for such a withdrawal. According to him, the Commission conducted the investigation. It decided to refer the matter to the Tribunal. It did all the work in preparation for the hearing, and suddenly, a few days before the start of the hearing, it decided to withdraw from the case without justification.

[8] According to Mr. Sawyer's counsel, such an attitude runs directly counter to protection of the public interest. The Tribunal should force the Commission to remain in the case specifically to protect the public interest.

[9] He also considers that the Commission should bear all costs of Mr. Sawyer's counsel related to the hearing.

[10] Section 51 of the Act states that "the Commission shall adopt such position as, in its opinion, is in the public interest having regard to the nature of the complaint".

[11] The Commission represents the public interest. The Tribunal is not competent to judge the validity of the Commission's decision to withdraw from the case, nor to order that the Commission assume the costs of the case for the complainant's counsel. The Tribunal, however, deplors the inconvenience caused the parties by the late--to say the least-- position taken by the Commission.

Roger Doyon, Chairperson

OTTAWA, Ontario

August 24, 2001

CANADIAN HUMAN RIGHTS TRIBUNAL

COUNSEL OF RECORD

TRIBUNAL FILE NO.: T587/4500

STYLE OF CAUSE: Gordon Sawyer v. Canadian Broadcasting Corporation

DECISION OF THE TRIBUNAL DATED: August 24, 2001

APPEARANCES:

Simon Lahaie and John T. Pepper For the Complainant

Philippe Dufresne For the Canadian Human Rights Commission

Thierry Bériault For the Canadian Broadcasting Corporation