

Forces agree to end anti-gay policies

Ottawa pays former officer \$100,000 to settle rights suit

BY THOMAS CLARIDGE
and GEOFFREY YORK

All barriers to the enlistment and promotion of homosexuals in the Canadian Armed Forces crumbled yesterday under the terms of an out-of-court settlement between the federal government and a former lieutenant who resigned after admitting to having had a lesbian relationship.

The settlement, under which Michelle Douglas received \$100,000 and payment of her legal costs, includes Ottawa's consent to a court order declaring that the Forces' policies against homosexuals violate the Charter of Rights and Freedoms.

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That order, by Mr. Justice Andrew MacKay of the Federal Court of Canada, was issued just minutes after lawyers for Ms. Douglas and the federal government had gathered in a downtown Toronto courtroom for a trial that had been expected to last three weeks.

Within hours, the Chief of Defence Staff issued a statement confirming that the Forces "will comply fully with the Federal Court's decision."

General John de Chastelain said that now, "Canadians, regardless of their sexual orientation, will now be able to serve their country in the Canadian Forces without restriction."

Ms. Douglas, 28, said it was "a great day for me, but more than a great day for gays and lesbians. It means simply that they are now equal."


Max Yalden, chief commissioner of the Canadian Human Rights Commission, also hailed the new policy. "Maybe this is a new era," he said. "It's very significant."

Mr. Yalden said the announcement could have far-reaching implications because it is enshrined in a court decision that will become a precedent for other legal challenges against discriminatory actions by employers.

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A jubilant Michelle Douglas savours victory yesterday at the office of her lawyer. (THE GLOBE AND MAIL/STAFF PHOTOGRAPHERS)

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"Judges will be influenced by this decision."
Under a 1976 Canadian Forces policy memorandum, anyone in the Forces who suspected that another member was a homosexual was required to report the matter to his or her commanding officer, who could use "any means at his disposal" to investigate.

Declaring that Forces policy did "not allow homosexual members or members with a sexual abnormality to be retained," the document required a report to be filed whenever an investigation led to "reasonable certainty that a member of the CF is a homosexual or has a sexual abnormality."

The memo stated that whenever it was decided that someone should be released, "appropriate action should be taken as quickly as possible, with a minimum of publicity."

The policy was amended in 1988 to provide that if the person involved did not agree to be released, he or she would receive no promotion, no career courses and no security clearances.

Ms. Douglas joined the Canadian Forces in 1986, a year after graduating from Carleton University in Ottawa. The next March she was the top graduate in her platoon and second in a class of 85 in military police training. Two months later, she received a top-secret security clearance, and the next year was commended for her superior performance in a security and intelligence course where she again led her class.

However, within two weeks of her graduation, she became the subject of a security investigation because of allegations she might be involved in a lesbian relationship.

After confirming she had had such relationship in July, 1988, she was posted to Canadian Forces Base Toronto as a protocol officer. Later, however, she was asked to take a lie-detector test to determine whether she might be a security risk. During the investigation, she was taken to a room in Toronto's Concession Hotel and grilled about her friendships by two male members of a special investigation unit.

A review board eventually recommended that she be denied all security clearance because of "a demonstrated disregard for security regulations and apparent strong loyalty to members of the gay community."

Four months later, in August, 1989, she resigned under protest and filed a wrongful-discrimination suit against the Forces, seeking \$500,000 in damages.

She also appealed to the federal Security Intelligence Review Committee, a civilian body that deals with complaints of this kind. SIRC concluded after a hearing in 1990 that the Forces' anti-homosexual policy contravened the Charter and

that Ms. Douglas should be reinstated with full security clearance.

Yesterday's out of court settlement was reached nearly three months after the Ontario Court of Appeal decided that sexual orientation should be "read into" the Canadian Human Rights Code even though it is not listed among the code's prohibited forms of discrimination.

At that time, Ms. Douglas's lawyer, Clayton Ruby, predicted the decision would help his client, who has worked for Revenue Canada in Barrie, Ont., since leaving the Forces.

He said yesterday that with Judge MacKay's order, members of the Forces "will all march to the same tune," and the settlement will leave Britain and the United States as the only Western industrial nations with anti-gay policies in the military.

The Canadian military was on the verge of announcing a sexual-orientation policy last year, but at the last minute cancelled the announcement because of protests by Conservative MPs. Yesterday, at least one Tory backbencher seemed less than enthusiastic about the new policy.

"They're going to hire people who have a quieter lifestyle," said Conservative MP Donald Bleaney, a member of the Tory caucus committee on family issues.

Mr. Bleaney said he accepts the new military policy as an inevitable consequence of the legal challenges to the old policy. "There comes a point when you can't keep fighting lawsuits," he said.

He confirmed that the new policy was delayed as a result of resistance from Tory backbenchers and military employees. "Some caucus members were upset, some Armed Forces people were upset," he said.

New Democrat MP Sverdrup Robinson, the only MP who has publicly disclosed his own homosexuality, said the court ruling yesterday is "a historic victory" for Ms. Douglas and others who have suffered discrimination.

"It's a victory for those who lost their jobs in the Armed Forces and in many cases had their lives shattered," he said.

There are dozens of hundreds of homosexuals in the Armed Forces who should get financial compensation for the damage to their careers, he said.

He said the government refused to take any action until it faced the prospect of a humiliating loss in the court case.

"The Armed Forces had to be dragged kicking and screaming into the 20th century," he added.

Liberal MP William Rompkey said the announcement was long overdue. "It's about time. They really couldn't have put it off any longer. It was reprehensible that the government didn't go ahead with this a year ago."

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