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Canada

HIV sufferer hopes case will help others cope

By Elaine Flaherty
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HALIFAX — Simon Thwaites hopes victory in his battle with the Canadian Armed Forces will help other HIV-infected Canadians who feel the sting of discrimination.

Monday, a federal human rights tribunal awarded Thwaites more than \$150,000 in lost wages, compensation for "hurt feelings" and legal costs. The tribunal ruled the military discriminated against the former sailor in 1989 when it discharged him.

"I'd like to say I'm really pleased with the human rights decision," Thwaites said at a press conference. "Hopefully, in the future it's going to be easier for people now that a precedent has been set and they can speak out."

The Canadian Human Rights Commission tribunal ruled that discharging Thwaites, a nine-year veteran, was "too drastic." The three-member panel said the military failed to fully assess his condition or look specifically at his case.

"The CAF (Canadian Armed Forces) cannot escape its responsibility for dealing with such members as individuals . . .

"It is no longer sufficient to consider diseases in the abstract without regard to how the particular person in question is actually coping with his or her affliction."

Capt. Marc Rouleau said Monday the Defence Department is reviewing the decision with the Justice Department and will decide on an appeal within 30 days.

Thwaites answered only a few questions Monday, leaving most of the talking to lawyer Lynn Reiersen, who represented the former electronic-sensor operator at the hearing in Halifax last summer. She said the decision recognizes that employers must treat ill people as individuals. And she said "hundreds and hundreds" of Canadians are probably in similar situations.

Max Yalden, head of the human rights commission, agreed.



— CP photo

Victory: Simon Thwaites enters press conference with lawyer Lynn Reiersen in Halifax Monday after human rights tribunal ruling

"We haven't had a case involving HIV up to this one that provides such a clear indication of the requirement of the employer to individually assess the person with HIV," he said from Ottawa. "It goes to the heart of human rights law that you do not make these stereotypes and base your judgments on them."

Thwaites discovered in 1986 that he had the human immunodeficiency virus that often leads to AIDS. He told his superiors, but insisted he was not homosexual. Offi-

cers later discovered he was and removed him from his ship and froze his status.

This was standard procedure until a recent court decision barring discrimination against gays and lesbians in the military.

Thwaites showed no symptoms and was receiving experimental AZT drug treatment at a Halifax hospital. Military doctors concluded this care meant he could not go to sea and discharged him despite what Reiersen called "an impeccable record."

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