



National Defence Défense nationale

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s.19(1)

6007-1 (B Sup O)

Canadian Forces Base Halifax
FMO Halifax, Nova Scotia
B3K 2X0

6 December 1993



Dear

SECOND LEVEL GRIEVANCE

A second level grievance hearing was held Friday, 19 November 1993, to hear your complaint under file 93-A-HAL-053. In attendance were yourself, Mr. P. Allen and Mr. D. Goode, UNDE Representatives, and Mr. R. Downey, BCPO Representative.

In this instance, you are grieving that by not authorizing "Leave with Pay for Family-Related Responsibilities" under Article M-21.09 of the Master Collective Agreement for the dates noted on your Grievance Presentation form (TBC/CTC 340-3), management is in violation of Article M-16 of the same agreement. It is your contention that by not recognizing your present partner as a "common-law spouse" for application of the Family Related Leave provisions of the Master Collective Agreement, the Department is discriminating against you on the basis of your "sexual orientation".

NOTE

The arguments presented by Mr. Allen to support your complaint were based on a recent decision by the Public Service Staff Relations Board in the case of one Mr. David Francis Lorenzen. In that case, the Board ruled that the Master Collective Agreement definitions of "spouse" and "common-law spouse" were discriminatory on the basis of sexual orientation and subsequently ordered the employer to restore to the grievor the vacation leave credits he had been authorized to take and treat the leave days requested by and granted to the grievor at the relevant times as bereavement leave and family-related responsibilities leave and to amend the grievor's personnel record accordingly.

1/2

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It is my understanding that Public Service Staff Relations Board decisions in themselves, are not deemed to be precedent setting. Furthermore, the decision in relation to Mr. Lorenzen has been appealed to the Federal Court of Canada. In that the current definition of "common-law spouse" in the Master Collective Agreement remains in effect I have no alternative but to deny your request for family-related responsibilities leave to cover time taken to attend to your partner.

In conclusion, my investigation of the facts related to this grievance have not supported your allegation of management discrimination based on sexual orientation. While it is acknowledged that if your partner were of the opposite sex your relationship would likely be recognized for purposes of granting the leave requested, until such time as direction is received to the contrary, I must continue to apply the restricted definition of "common-law spouse" as negotiated in the Master Collective Agreement. I must therefore deny your grievance and the corrective action requested.



B.A. Stoddart
Commander
Base Supply Officer

cc: UNDE Representative Mr. P. Allen

2/2

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