

UNDE



LOCAL 80406

20 December 1993

RE: GRIEVANCE - UNDE # (6-HAL-64/93) - [REDACTED]

The grievor has and still is occupying the indeterminate position and classification of [REDACTED] in

[REDACTED] for the Department of National Defence. As such he is a member of the Public Service Alliance of Canada and is covered by the Collective Agreement which was appended by an adjudication hearing which dealt with Family Related Responsibilities and Bereavement Leave.

The grievor has lived with his partner, [REDACTED] since March of 1982. They have jointly rented accommodations, and since March of 1987, they have jointly owned their home and have shared their household since that time. In their relationship, since March of 1982 the grievor and [REDACTED] have publicly represented themselves as being in a spousal relationship with each other.

In late June - early July of this year 1993, [REDACTED] had been diagnosed as having full blown AIDS. Subsequent to that diagnosis [REDACTED] had almost passed away twice, and finally on 29 November 1993 died.

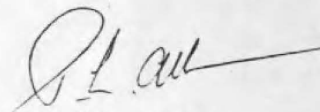
Under the authority of Article M 21.02 of the Collective Agreement the grievor requested Bereavement Leave for the period November 29 - December 02, 1993. These 4 calendar days were required and did not extend beyond the day following the day of the funeral (December 02, 1993).

The employer has denied this request for Bereavement Leave claiming that the grievor and [REDACTED] did not meet the definition of "spouse" or "common law spouse" in the Master Agreement as they are both of the same sex. If the grievor and [REDACTED] had been of the opposite sexes the leave would have been granted.

The employer, the Department of National Defence acknowledges the Adjudication Case heard before Marguerite Marie Galipeau on behalf of the Public Service Staff Relations Board, that has ruled in favour of Mr. David Lorenzen in the matter of same sex spouses being granted Family Related Responsibilities and Bereavement Leave, but however, because a lack of direction and a subsequent appeal by the Treasury Board on this issue, the employer has refused to grant the grievor [redacted] these benefits. Therefore [redacted] contends that the employer has violated Article M - 16 of the Collective Agreement by discriminating against him on the basis of his sexual orientation.

The grievor has suffered additional stress in his time of grief because of the employer's refusal to grant this leave and was compelled to use his Certified sick Leave in lieu of Bereavement Leave. The grievor seeks redress in full, in that the employer will comply with the decision of the Adjudication and grant him his just benefits retroactively in regards to Bereavement Leave and also restore to him his Sick Leave Credits that he was forced to use in lieu of his unjustly denied Bereavement Leave.

This grievance is a follow up case to a previous one in which [redacted] had requested Family Related Responsibilities Leave in order to aid his partner in the close of [redacted] s life. It is strongly felt that had the employer acted with more compassion and dispatch in dealing with [redacted] s initial case, he would not have had to jump through the same hoops again in his time of serious grief. This discrimination as it can only be called is totally unjust in today's society. The grievor has had to bare his heart and soul in order to get a benefit that if he had not been in a same sex spousal relationship, would have been granted with a rubber stamp. Because of his relationship the grievor has been forced to deal with an unfeeling and stubborn bureaucracy and it is hoped that employees in the future will not have to go through the unnecessary pain caused by a situation like this .



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