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DJAG / Pa
HR12
HR13



Memorandum

1461-31- (DHRAHC 2-3)

7 Mar 96

Dist List

RESOLUTION OF CANADIAN HUMAN RIGHTS COMPLAINTS
BY NDHO

For info. There were about 3 cases like this.
SJB.
7 Mar 96

1. In Mar 94, [redacted] lodged Human Rights complaints of discrimination against DND on the grounds of sex (orientation) and family status. The complainant alleged that DND has discriminated against him and other individuals in employment by pursuing a policy or practice that tended to deprive a class of individuals of employment opportunities because of their sexual orientation and family status, contrary to sections 7 and 10 of the CHRA.

2. These complaints related to the interpretation of substantive provisions of Treasury Board policy, including collective agreements. Therefore, DND advised the CHRC that it had no authority to amend the terms of the collective agreements, nor to interpret their provisions where the wording of the appropriate section of the collective agreement leaves no doubt concerning the manner in which the provisions in question are to be applied. However, in respect of the section 7 aspect of the complaints, the appropriate Departmental corrective action had already been taken as a result of the settlement of [redacted]'s grievance on the issue of leave with Treasury Board prior to its adjudication. Therefore, it was recommended that the Human Rights complaints be dismissed, discontinued or withdrawn, and that the policy related issue concerning the wording and definitions in the collective agreement should more appropriately be pursued by the Commission and [redacted] with respect to the two parallel complaints lodged against the Treasury Board and the Public Service Alliance of Canada.

3. In May 95, on recommendation of the Human Rights Officer assigned to the complaints, the Commission decided to appoint a Conciliator to attempt to bring about a settlement in respect of the section 10 aspect of the complaints satisfactory to all parties concerned, and indicating no further proceedings were warranted in respect of the section 7 aspect of the complaint.

4. In Nov 95, Treasury Board made changes to the interpretation of certain provisions of the collective agreements (i.e. Bereavement Leave, Leave for Family-Related Responsibilities, Leave for Relocation of Spouse, Foreign

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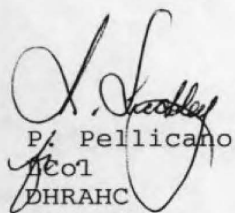
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Service Directives, Isolated Post Directives and Relocation Directive) concerning benefits for partners of the same sex. These changes now permit an employee who is living in a same-sex partner relationship to be granted the benefits to which an employee who is a common-law spouse is entitled with respect to the items identified.

5. Negotiations were subsequently undertaken between the Treasury Board, as the primary Respondent, the DND as secondary Respondent and the Canadian Human Rights Commission. As a result, the section 10 complaint was resolved at the conciliation stage.

6. In Feb 96, the Commission approved the Minutes of Settlement comprising of a financial compensation for hurt feelings to the complainant, such compensation to be paid by Treasury Board, as the primary Respondent.

7. In view of the foregoing, no further action is required on the matter and the file has been closed. Your assistance in the resolution of these complaints is appreciated. Should further clarification be required, please contact Mr. R. Brockley, DHRAHC 2, at 992-1095.


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9901
DHRAHC
992-7095

Dist List

DGP (Mat)
DHRAHC 3
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