Canadian Human Rights Tribunal

Tribunal canadien des droits de la personne

Between:

William Charles Bailie, Richard Galashan, Robert G. Williams, Robert Harrison, Alvin Gerrard, Sheldon K. Cullen, Garth Vickery, Arthur Randolph Gouge, Warren Young, Gary Nedelec, Jorg Bertram, Lloyd Fraser, Colin Jordan, Mervyn Andrew, Alexander Samanek, Michael S. Sheppard, Robert Harrold Mitchell, Francis J.R. Jeffs, Douglas Goldie, Stephen Ritchie St. Pierre, James Stanley Caldwell, Brian Scott Hope, Trevor Alexander Nicol, James Dow, David R. Lance, Gary Bedbrook, Marcel Duschesne, John Burridge, Chirs Evans, John Bell, Tim Ockenden, Kent Jeffrey Benson, David R. England, Pierre Garneau, Jacques Couture, Dave Lineker, William C. Nickerson, Larry James Laidman, John Stephen Gibbs, Robert Bruce Macdonald, Gordon A.F. Lehman, Michael Dell, Dennis Smith, James F. Dietrich, Ralph Tweten, Eric William Rogers, John D. Hargreaves, Peter J.G. Stirling, David Malcom Macdonald, Robert William James, Camil Geoffroy, Brian Campbell, Trevor David Allison, Robert Ferguson, Kenneth David Douglas, Benoit Gauthier, Bruce Lyn Fanning, Marc Carpentier, Mark Irving Davis, Allan Brian Cary, Richard Dale Purvis, Raymond Calvin Scott Jackson, John Bart Anderson, James Shawn Cornell, Raymond D. Hall, Michael Stanley Bellinger, Donald Clifford Eddie, Peter Douglas Keefe, Robin Patrick Mclean Barr, David Leonard Mehain, Jacques Robillard, Errold Dale Smith, Glenn Donald Torrie, David Alexander Findlay, Warren Stanley Davey, Raymond Robert Cook, Keith Wylie Hannan, Michael Edward Ronan, Gilles Desrochers, William Lance Frank Dann, Robert Francis Walsh, Alban Ernest Maclellan, John Andrew Clarke, Bradley James Ellis, Michael Ennis, Stanley Edward Johns, Thomas Frederick Noakes, William Charles Ronan, Barrett Ralph Thornton

Complainants

- and -

Canadian Human Rights Commission

Commission

- and -

Air Canada
Air Canada Pilots Association

Respondents

Ruling

Member: Matthew D. Garfield
Date: March 29, 2012
Citation: 2012 CHRT 6

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I. Introduction

[1] On February 28, 2012 I granted a motion to adjourn this proceeding brought by the Air Canada Pilots Association ("ACPA"). These are my Reasons for Ruling.

II. History of This Proceeding and Related Ones

The Complaints of *Bailie et al.*

[2] This proceeding involves the Complaints of retired Air Canada pilots (*Bailie et al.*) who claim that Air Canada engaged (and continues to engage) in a discriminatory practice and applied a discriminatory policy by requiring them to retire at the age of 60. This was pursuant to the collective agreement negotiated between Air Canada and the bargaining agent, ACPA, and the pilots' pension plan. As a result, companion Complaints have been filed by these retired pilots against ACPA too, and had been combined into a single hearing by the Tribunal. The pilots claim that requiring them to retire at age 60 was in violation of sections 7, 9 and 10 of the *Canadian Human Rights Act*, R.S.C. 1985, c. H-6, as amended ("*CHRA*").

[3] As of the date of these Reasons, other complaints of retired Air Canada pilots involving the same issues have been referred by the Canadian Human Rights Commission ("Commission") to the Tribunal. The Chair of the Tribunal has assigned those complaints to me. There are now a total of 178 complaints (89 complainants) in the cluster of complaints cited as "*Bailie et al.*" They are all represented by counsel Raymond D. Hall (also a Complainant), except for three self-represented Complainants: Dennis Smith, Eric Rogers and Robert Walsh.

[4] Below is a useful summary of the Tribunal and Federal Courts proceedings of the related Air Canada pilots mandatory retirement cases of *Vilven/Kelly* and *Thwaites et al.* taken from ACPA's motion record, with additions/changes by me.

The Complaints of Messrs. Vilven and Kelly

(a) Tribunal Decision - 2007 CHRT 36

- The Tribunal dismissed the complaints after finding that age 60 was the normal age of retirement within the meaning of s. 15(1)(c) of the *CHRA*.

- The Tribunal also found that s. 15(1)(c) was not discriminatory within the meaning of s. 15 of the *Canadian Charter of Rights and Freedoms* ("*Charter*").

(b) Federal Court - 2009 FC 367

- This decision was a judicial review of 2007 CHRT 36.

- The Court overturned the Tribunal's finding that s. 15(1)(c) of the *CHRA* was not discriminatory and remitted the s. 1 *Charter* issue to the Tribunal.

- The Court directed the Tribunal to consider the *bona fide* occupational requirement ("BFOR") defences if the Tribunal found that s. 15(1)(c) was not saved by s. 1 of the *Charter*.

- The Court upheld the Tribunal's finding and methodology with respect to age 60 being the normal age of retirement.

(c) Tribunal -2009 CHRT 24

- The Tribunal found that s. 15(1)(c) was not saved by s. 1 of the *Charter*.

- The Tribunal dismissed Air Canada's and ACPA's BFOR defences and upheld the complaints.

(d) Federal Court - 2011 FC 120

- This decision was a judicial review of 2009 CHRT 24.

- The Court upheld the Tribunal's finding that s. 15(1)(c) was not saved by s.1 of the *Charter*.

- The Court overturned the Tribunal's conclusion that Air Canada had not established a BFOR defence and remitted the issue to the Tribunal.

- The Court declined to issue a general declaration of invalidity regarding s. 15(1)(c).

(e) Tribunal - 2011 CHRT 10

- The Tribunal re-determined the question of whether Air Canada had established a BFOR defence and concluded that it had. The complaints were dismissed.

(f) Tribunal - 2010 CHRT 27

- In spite of the outstanding judicial review applications of 2009 CHRT 24 [*CHRA* s. 15(1)(c) not saved by *Charter* s. 1; no BFOR; complaints substantiated], the Tribunal proceeded with the hearing regarding the appropriate remedies.

- The hearing occupied 11 days and the decision was rendered moot by the subsequent Federal Court and Tribunal decisions.

Outstanding Court Proceedings

(a) Federal Court of Appeal - A-107-11

- The appeal and cross-appeal from 2011 FC 120 were heard November 22, 2011.

- The issues before the Court were whether s. 15(1)(c) of the *CHRA* is saved by s. 1 of the *Charter* and if not whether the Court should issue a general declaration of invalidity.

(b) Federal Court - T2036-10, T2047-10, T2048-10

- These applications for judicial review are of the remedy decision 2010 CHRT 27.

- Vilven and Kelly challenge the Tribunal's calculation of pension benefits.

- Air Canada challenges the Tribunal's refusal to apply the doctrine of mitigation.

- These applications were set for hearing in October 2011 but were adjourned generally as a result of the Tribunal’s decision 2011 CHRT 10 which dismissed the complaints.

(c) Federal Court - T1282-11, T1283-11, T1284-11

- Judicial review applications of 2011 CHRT 10.

- Vilven, Kelly and the Commission challenge the Tribunal's dismissal of the complaints on the basis of Air Canada’s BFOR defence.

The Complaints of *Thwaites et al.*

(a) Tribunal - 2011 CHRT 11

- The Tribunal dismissed the complaints on the basis that age 60 was the normal age of retirement.

- The Tribunal rejected the BFOR defences advanced by Air Canada and ACPA.

- The Tribunal did not deal with the constitutionality of s. 15(1)(c) of the *CHRA* and a motion to reopen the hearing was made. On February 20, 2012, the Tribunal ruled that it would resume the hearing to determine whether the Judgment of Mactavish J., 2011 FC 120, is binding on the *Thwaites* Tribunal; and, if not, whether s. 15(1)(c) is unconstitutional.

Outstanding Court Proceedings

(a) Federal Court T1428-11

- *Thwaites et al.* have sought judicial review of the Tribunal's decision with respect to the proper calculation of the normal age of retirement and the Tribunal's failure to consider the constitutionality of s. 15(1)(c). On March 2, 2012, on consent the Federal Court ordered this and related judicial review applications consolidated and held in abeyance, pending the Tribunal's Decision above.

(b) Federal Court - T1456-11

- The Commission has sought judicial review of the Tribunal's failure to consider the constitutionality of s. 15(1)(c).

(c) Federal Court - T1453-11

- Air Canada has sought judicial review of the Tribunal's dismissal of its BFOR defence.

(d) Federal Court - T1463-11

- ACPA has sought judicial review on the basis that the Tribunal erred in rejecting its BFOR defence.

III. Grounds for The Motion - ACPA

[5] The moving party, ACPA, "seeks an Order that the complaints currently before the Tribunal be adjourned generally pending a resolution of the outstanding matters before the Federal Court and the Federal Court of Appeal."

[6] The crux of the moving party's argument is:

> …all of the issues which may arise in the outstanding complaints have been considered by the Tribunal and in every case the Tribunal's decisions have been the subject of judicial review applications. Until the Federal Courts have ruled on those issues there is no reason for the Tribunal to conduct yet another hearing and issue another set of reasons which would inevitably be the subject of judicial review applications.
>
> At this point there has already been a significant expenditure of time, resources and money. To commence a duplicative process that will not result in any finality is neither in the public interest nor in the interest of the litigants.

[7] ACPA cites Tribunal jurisprudence which states that the Tribunal has wide discretion in determining whether to grant an adjournment (as opposed to a stay which it has no jurisdiction to issue): *Baltruweit v. CSIS*, 2004 CHRT 14; *Abrams v. Topham*, 2010 CHRT 14.

[8] *Abrams* and the related Decision in *Canadian Jewish Congress v. Makow*, 2010 CHRT 13 dealt with the section 13 "hate messages" provision of the *CHRA*. This followed the Decision of the Tribunal in *Warman v. Lemire*, 2009 CHRT 26 wherein it had held that section 13 of the *CHRA* violated section 2(b) of the *Charter* and refused to apply section 13 and related sections. In *Abrams* and *Makow*, Member Lustig granted an adjournment *sine die* (without a fixed resumption date) stating: "It is now up to the Federal Court to determine the operability of s. 13 of the *CHRA*.

This will achieve the clarity that the Commission has indicated and that I agree is desirable in order to allow the Tribunal to be able to determine this and other cases brought under s. 13 of the *CHRA*." ACPA submits that the same reasoning and adjournment should be granted to the analogous situation here:

> …given the large number of cases before the Tribunal which result from the same mandatory retirement policy, it is appropriate to grant the adjournment being sought. The goal of achieving consistency in the proper interpretation and application of the Act is of particular concern where there are multiple cases before the Tribunal.

IV. Other Parties' Positions

Air Canada

[9] Air Canada supports the motion and arguments of ACPA. Air Canada also writes of the "clarity" in *Makow* that would "flow" from the ultimate Reasons for Judgments of the reviewing and appellate courts. "That same clarity should be sought in the present case before proceeding…Clarity will mean the case will ultimately proceed more efficiently, even if it does not commence right away."

[10] Air Canada also submits: "…one important lesson to draw from the cases involving other former Air Canada pilots is the wisdom of trying to resolve one case first, and using the lessons

learned from that experience to assist in the resolution of the cases which follow…Adding a further burden to the Tribunal and parties by commencing another hearing without the courts[’] rulings in hand will not favour an expeditious, efficient or final resolution to these matters.”

Canadian Human Rights Commission

[11] In the absence of an undertaking by ACPA and Air Canada that it would be bound by the results of judicial review applications in the *Vilven/Kelly* and *Thwaites* matters, the Commission is unable to consent, and must oppose the motion. It notes that, in contrast to *Lemire*, *supra*, here the Federal Court has already found that paragraph 15(1)(c) is contrary to the *Charter* and thus allows the *Bailie et al.* complaints to continue. The Commission also submits that the *CHRA* requires that a hearing be conducted as expeditiously as the requirements of natural justice and the *Rules of Procedure* allow. “It is therefore only in the most exceptional circumstances that the hearing of the complaints should be suspended.”

[12] Furthermore, the Commission argues that there is no indication that decisions by reviewing or appellate courts “would provide a full and final answer to the complaints presently pending before the Tribunal.”

The “Coalition Complainants”

[13] These 86 Complainants invoke the time-honoured legal adage – “Justice Delayed is Justice Denied.” Furthermore, they argue that matters here are “critically time-sensitive” given the age of the former pilot Complainants and their claim for reinstatement as pilots-in-command (captains). “No amount of financial compensation can wholly offset the denial of the rights of these Complainants…” Their counsel further states, “Any delay in the hearing of these Complaints inures entirely to the benefit of the Respondents and entirely to the prejudice of the Complainants.”

[14] The Coalition Complainants also argue that contrary to ACPA's and Air Canada's assertions, there is no such lack of clarity at the moment. The Federal Court's Judgment holding that para. 15(1)(c) of the *CHRA* is unconstitutional is binding on the Tribunal, until such time as it is overturned by a higher court. This possibility is not grounds for adjourning the instant complaints. Air Canada and ACPA are left with only one defence available – the para. 15(1)(a) BFOR one. The Tribunal should adjudicate on this matter.

[15] With regards to the BFOR defence, the Coalition Complainants assert that such a defence is "evidence-dependent in respect of each Complainant," regardless of conflicting Tribunal Decisions on this issue in *Vilven/Kelley*, 2011 CHRT 10 and *Thwaites*, 2011 CHRT 11, respectively.

[16] The Coalition Complainants also submit that the moving party and/or Air Canada can bring a pre-hearing motion based on the doctrines of *res judicata* (issue estoppel) and abuse of process "to foreclose re-litigation of already adjudicated legal issues."

[17] In their conclusion, they argue that, "Any Motion to adjourn the hearing must balance the benefits to allegedly be obtained from the proposed delay with the prejudice that is likely to result to the Complainants by reason of the delay…Moreover, the submissions of both ACPA and Air Canada in support of the Motion are based upon mere speculation that some form of judicial or quasi-judicial economy may possibly result from the proposed delay in the hearing of these Complaints."

V. Analysis

[18] Subsection 48.9(1) of the *CHRA* provides that, "Proceedings before the Tribunal shall be conducted as informally and expeditiously as the requirements of natural justice and the rules of procedure allow." Rule 3 of the Tribunal's *Rules of Procedure* sets out a procedure for bringing a motion, including a motion for an adjournment. Subsection 50(1) of the *CHRA* deals with the

conduct of the inquiry and gives "all parties to whom notice has been given a full and ample opportunity…to appear at the inquiry, present evidence and make representations."

[19] The Tribunal has held that a stay is not obtainable from the Tribunal. The Federal Court is the proper forum for that type of Order: *Baltruweit, supra*. In that ruling, the Tribunal also rejected the applicability of the *RJR-Macdonald* test, [1994] 1 S.C.R. 311, which sets outs the conditions for granting a stay.

[20] In *Baltruweit, supra,* the Tribunal noted the long held principle that administrative tribunals are the masters of their own proceedings. "As such, they possess significant discretion in deciding requests for adjournments": at para. 15. I agree. With an adjournment, the Tribunal may, on a party's motion or on its own, resume the proceeding. Adjournments may be granted *sine die* (without a fixed return date), with a fixed date, and with or without conditions. As will be seen later, I have granted the adjournment with conditions, utilizing the flexibility inherent in this tool.

[21] At para. 17 in *Baltruweit, supra,* the Tribunal writes: "It is clear then that this Tribunal, when exercising its discretion, must do so having regard to principles of natural justice. Some examples of natural justice concerns to which the Tribunal could respond to, would be unavailability of evidence, the need to adjourn or obtain counsel, or late disclosure by an opposite party." I agree with this *non-exhaustive* list. Finally, at para. 19, the Tribunal states: "Ultimately, in these submissions there are no expressed natural justice concerns that would temper the admonition in s. 48.9(1) of the *Act* for the Tribunal to proceed as expeditiously as possible." I find that adjournments may be granted in the absence of the above noted "natural justice concerns".

[22] In the instant motion, the "admonition" to proceed as expeditiously as possible must be seen in the larger context. In cases such as the section 13 hate message ones (i.e., *Abrams* and *Makow*) and the Air Canada pilots cases (*Vilven/Kelly, Thwaites et al.*, and *Bailie et al.*), short

term delay can achieve long term gain, and a better final result. In other words, allowing one case with the same or substantially similar issues to run its course through the administrative justice/judicial system is fairer and more just and "expeditious" in the long run to the parties and future parties than holding a hearing in each case, followed by judicial review applications and appeals. It is also more just in terms of the public interest, with finite resources of the taxpayer-funded Tribunal and courts. I do agree with the Commission's submission that, "It is therefore only in the most exceptional circumstances that the hearing of complaints should be suspended." This is such a case; "exceptional circumstances" exist here.

[23] I would also add that "expeditious" means more than just "done with speed." The *Canadian Oxford Dictionary* defines "expeditious" as "…acting or done with speed and efficiency…" As a legal term, in French, "procédure expéditive" is defined as "rapide et efficace" (*le Petit Robert 2012*).

[24] Class action-type, systemic cases like the instant one, with the same class of complainants (Air Canada pilots having reached 60 years of age), the same respondents, the same Commission, the same sections of the *CHRA* in issue, and the same or substantially similar factual and legal issues, call out for a unique approach from the typical single complainant/single respondent *CHRA* case. These types of cases raise unique questions about quasi-judicial resource allocation and costs to the parties. In hindsight, which is indeed "50-50", Air Canada's wish to run the *Vilven/Kelly* case right through to its completion, both liability and remedy phases, followed by guidance from the Federal Courts in any judicial review/appeal (including to the Supreme Court of Canada), would have been the best use of every one's resources, time and money. Instead, there has been bifurcation (including my own Order in the *Bailie* proceeding on consent of the parties to split liability and remedy) and duplication as the *lis* or core dispute in these cases (i.e., Air Canada's mandatory retirement policy for its pilots at age 60 and corresponding collective agreement provision) has been pursued through three streams of cases – *Vilven/Kelly*; *Thwaites et al.*; and *Bailie et al.* Two of these streams flowed through the Tribunal to the courts, with judicial review applications launched by one or more parties on every

Tribunal Decision. The History of the Proceedings summary above illustrates the labyrinth of Tribunal and judicial pathways in these streams. *Bailie et al.* is the third stream, where now a third panel is being called upon to deal with the same or substantially similar factual and legal issues. While the past is immutable, the future is indeed indeterminate. Should the Tribunal simply repeat the pattern? I think not.

[25] I say this, understanding the important implications for the *Bailie et al.* Complainants. All of them are over 60 and many near 65 years of age. Thus, for many of them, an adjournment would effectively deny them reinstatement – to fly again as pilots-in-command or captains with Air Canada – if the final decision went their way. However, granting or not granting the adjournment in the context of this systemic, class action-type proceeding must employ a balancing exercise of all relevant competing interests, including the fair and just use of finite resources with a view to achieving ultimately the most "expeditious" procession of this inquiry. I wish to add that nothing prevents the Complainants from seeking interim relief (i.e., reinstatement) in the Federal Court: *Canada (Human Rights Commission) v. Canadian Liberty Net*, [1998] 1 S.C.R. 626.

[26] To this end, I have considered the following factors in this "balancing" exercise:

1. the legal issues in *Vilven/Kelly, Thwaites et al.* and *Bailie et al.* are substantially the same: e.g., the constitutionality of section 15(1)(c) of the *CHRA* ("normal age of retirement" defence); the merits of this defence; the merits of the section 15(1)(a) BFOR defence. Even the remedies are very similar in the three streams. And there is a similar "prevention of future acts" aspect. Indeed, in the Coalition Complainants' previous Notice of Motion for particulars and to strike pleadings (dismissed in 2011 CHRT 17), para. 11 reads in part:

> The issues in this proceeding are largely similar, if not identical to the issues that the Tribunal heard in the *Vilven-Kelly* hearing, and in the *Thwaites* hearing. Were it not for the fact that the Tribunal's decision in the *Thwaites* hearing has yet to be rendered by the

> Tribunal [it has since been released: 2011 CHRT 11, with one final aspect outstanding], it would be correct to say that all of the issues in this proceeding have already been heard and decided before the Tribunal, and this hearing might not be required at all.

2. The history of the *Vilven/Kelly* and *Thwaites* inquiries show that every significant Tribunal decision has been judicially reviewed by one or more parties. And one Judgment of the Federal Court is awaiting the results of an appeal to the Federal Court of Appeal. This suggests that any decision by me would not provide a final resolution to the case;

3. Two separate panels (former Chair Sinclair and Member Craig) have reached the same ultimate conclusion (dismissal of the complaints), subject now to former Chair Sinclair's pending determination of the re-opened matter in *Thwaites*, but with a different conclusion and analysis on key legal issues: i.e., the BFOR defence. These Decisions are not binding on me or future panels, as the principle of *stare decisis* does not apply to Tribunal decisions. This conflicting state of affairs requires judicial "clarity", not a third Tribunal panel's Decision;

4. An adjournment with conditions allows the parties and me to monitor each judicial pronouncement, in order to re-assess whether the conditions have changed as to warrant lifting the adjournment and proceeding with *Bailie et al.*;

5. The granting of an adjournment with conditions is preferable and less intrusive and determinative of rights than dismissing parts of a complaint based on *res judicata*, issue estoppel, or abuse of process. In a previous motion for particulars and to strike, the parties were asked if they intended to bring a motion to dismiss for abuse of process. The Coalition Complainants indicated that they would await the Ruling on particulars and to strike before making their decision. The Commission stated it would not "file a separate motion [for abuse of process] but will instead object to any attempt at adducing evidence that would attempt to contradict the decisions of the Federal Court [in the *Vilven/Kelly* matter]"; and

6. *The Bailie et al.* complaints remain intact for adjudication, once judicial "clarity' has been achieved.

[27] I have followed the reasoning and approach of Member Lustig in *Abrams* and *Makow*, *supra*, dealing with the section 13 hate messages cases before the Tribunal, as stated in para. 9 and 8 of those Decisions, respectively. I note that in the hate messages cases, there too were conflicting Tribunal Decisions on the constitutionality of section 13: see *Lemire*, *supra* and *Schnell v. Machiavelli and Associates Emprize Inc.*, 2002 CanLII 1887. However, unlike *Bailie et al.*, with the s. 13 cases, there was at least a Supreme Court of Canada Judgment from 1990, *Canada (Human Rights Commission) v. Taylor*, 1990 3 S.C.R. 892 on the constitutionality of s. 13. Since the Tribunal in *Makow* and *Abrams* found that the interests of justice clearly favoured adjourning (notwithstanding the presence of a highly instructive Supreme Court of Canada authority), then the argument for adjourning in the present case is even stronger, given the absence of similar judicial direction.

[28] As a result of my balancing the various interests and needs of the parties and the public interest, I have granted the motion to adjourn, and the Order follows herein.

VI. Order

[29] On February 28, 2012, I granted ACPA's motion to adjourn and made the following Order:

> ACPA's motion to adjourn the proceeding pending completion of matters before the courts in the *Vilven/Kelly* and *Thwaites* complaints is granted, with the following conditions:
>
> (1) ACPA shall keep the Tribunal apprised of the status of judicial review applications/appeals in the *Vilven/Kelly* and *Thwaites* matters, including any Reasons for Judgments; and

(2) any party or the Tribunal may require the holding of a Case Management Conference Call after the release of Reasons for Judgment in any of the judicial reviews/appeals referred to in clause (1) in order to re-assess the adjournment status herein.

The Case Management Conference scheduled for March 1 and 2, 2012 and the subsequent hearing dates are vacated. Reasons for Ruling will follow within 30 days.

Signed by

Matthew D. Garfield
Tribunal Member

Ottawa, Ontario
March 29, 2012

Canadian Human Rights Tribunal

Parties of Record

Tribunal File: T1338/6409
T1516/6210 to T1607/5310;
T1630/17610 to T1645/17610;
T1646/0111 to T1649/0411
T1664/01911 to T1681/03611;
T1707/6211 to T1722/7711;
T1723/7811 & T1724/7911
T1755/11011 to T1768/12311

Style of Cause: Mehain et al. v. Air Canada and Air Canada Pilots Association
Bailie et al. v. Air Canada and Air Canada Pilots Association
Hargreaves et al. v. Air Canada and Air Canada Pilots Association
Douglas and Ferguson v. Air Canada and Air Canada Pilots Association
Gauthier et al. v. Air Canada and Air Canada Pilots Association
Findlay et al. v. Air Canada and Air Canada Pilots Association
Alban Ernest MacLellan v. Air Canada and Air Canada Pilots Association
Noakes et al. v. Air Canada and Air Canada Pilots Association

Ruling of the Tribunal Dated: March 29, 2012

Appearances:

Raymond D. Hall, for the Complainants (except Messrs. Rogers, Walsh and Smith)

Eric William Rogers, for himself

No submissions filed, Robert Francis Walsh

No submissions filed, Dennis Smith

Daniel Poulin, for the Canadian Human Rights Commission

Fred Headon, for Air Canada

Bruce Laughton, for Air Canada Pilots Association