

**Canadian Human  
Rights Tribunal**



**Tribunal canadien  
des droits de la personne**

**Citation:** 2018 CHRT 24

**Date:** August 21, 2018

**File No.:** T2125/4115

**Between:**

**Kayreen Brickner**

**Complainant**

**- and -**

**Canadian Human Rights Commission**

**Commission**

**- and -**

**Royal Canadian Mounted Police**

**Respondent**

**Ruling**

**Member:** David L. Thomas

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## **I. Respondent's Motions**

[1] Corporal Kayreen Brickner (Complainant or Cpl. Brickner) is a female member of the Royal Canadian Mounted Police (RCMP), the Respondent in this proceeding. The Complainant and her husband, RCMP Corporal John Marinis (Cpl. Marinis), had been stationed together at E Division (British Columbia) in Squamish, B.C. In April 2012, Cpl. Marinis applied for an RCMP position in Whitehorse in the Yukon Territory but it required moving his spouse and their four children from British Columbia to the Yukon Territory. The Complainant alleges that she suffered discrimination based on the grounds of sex and family status because she was not appropriately accommodated in her transfer to the new division. She also alleges several instances of retaliation.

[2] In preparation for the Hearing, Cpl. Brickner proposed calling two witnesses, Cpl. Natasha Dunmall and Cpl. Daniela Panesar. The Complainant also proposed calling Retired Staff Sergeant Peter Cross (Cross) and wished to rely on the expert evidence of Linda Duxbury and Martha Friendly, who were not originally proposed to appear before the Tribunal at the Hearing. The Respondent brought two motions to strike witnesses Dunmall, Panesar and Cross as well as the proposed expert evidence of Ms. Duxbury and Ms. Friendly.

[3] In her Response, Cpl. Brickner agreed to remove Cpl. Dunmall and Cpl. Panesar from her witness list and she also agreed to not introduce the expert evidence of Ms. Duxbury and Ms. Friendly. However, Cpl. Brickner argued in her Response that Cross should be permitted to testify because he has potentially relevant evidence to offer the Tribunal. For the reasons and on the conditions set out below, I will allow Cpl. Brickner to call Cross as a witness at her Hearing.

[4] The Respondent questions the relevance of Cross' proposed evidence. Firstly, he has never worked in M Division or any other northern post for the RCMP. Secondly, Cross retired from the RCMP in 2012, before all material events in Cpl. Brickner's complaint took place. Thirdly, the Respondent argues that Cross never worked with or supervised Cpl. Brickner, and therefore has no direct knowledge of her working abilities.

## II. Principles of Disclosure and Analysis

[5] Pursuant to subsection 50(1) of the *Canadian Human Rights Act*, RSC 1985, c H-6 (*Act*), parties before the Canadian Human Rights Tribunal (Tribunal) must be given a full and ample opportunity to present their case. The Tribunal is less formal than a court and may admit evidence that might otherwise be inadmissible under standard evidentiary rules. As the trier of fact, it is for the Tribunal to evaluate the evidence, ascribe it weight, find the facts and draw reasonable inferences from the facts (*Stewart v. Elk Valley Coal Corp.*, 2017 SCC 30 at para. 20).

[6] According to Cpl. Brickner, Cross retired with 34 years of service and significant experience as a member, supervisor and manager in Major Crime Unit (MCU) offices. It is proposed that he will give evidence about the prerequisites and experience required of MCU candidates, including the relative importance of the Team Commander Course. I believe such evidence is arguably relevant to Cpl. Brickner's allegations that she was improperly denied an MCU position. The reservations that the Respondent has about the location and dates of Cross' experience may be addressed in its cross-examination of this witness.

[7] In fairness to the Respondent, and in accordance with its request in its Reply submissions, the Tribunal orders that Cpl. Brickner provide to the Respondent, at least one week before Cross is to testify, the following:

- A. An amended will say statement detailing the specific circumstances surrounding the "some cases" referenced at paragraph 6 of Cpl. Brickner's motion Response that Cross is anticipated to testify about, if any; and
- B. All arguably relevant documents relating to the testimony of Cross, including but not limited to any notes or emails taken during any accommodation interviews or discussions.

*Signed by*

David L. Thomas  
Tribunal Member

Ottawa, Ontario  
August 21, 2018

## **Canadian Human Rights Tribunal**

### **Parties of Record**

**Tribunal File:** T2125/4115

**Style of Cause:** Kayreen Brickner v. Royal Canadian Mounted Police

**Ruling of the Tribunal Dated:** August 21, 2018

**Motion dealt with in writing without appearance of parties**

**Written representations by:**

Paul Champ, for the Complainant

Monmi Goswami and Paul Battin, for the Respondent