

**CANADIAN HUMAN RIGHTS TRIBUNAL TRIBUNAL CANADIEN DES
DROITS DE LA PERSONNE**

MICHELINE MONTREUIL

Complainant

- and -

CANADIAN HUMAN RIGHTS COMMISSION

Commission

- and -

CANADIAN FORCES

Respondent

RULING

MEMBER: Athanasios D. Hadjis 2008 CHRT 44
2008/10/16

[1] The Respondent has made a motion to adjourn the re-hearing into the complaint, pending the outcome of its application before the Federal Court. The application seeks a judicial review of the Tribunal Chairperson's decision not to give his approval to Me Pierre Deschamps, to conclude the inquiry into the present case. The Commission and the Complainant oppose the motion.

[2] The Respondent indicates that the Federal Court has set down December 11, 2008, as the hearing date of the judicial review application. The Respondent also notes that the Commission has consented to the order being sought by the Respondent from the Federal Court. The Complainant, for her part, has requested that the Tribunal Chairperson reconsider his decision. Thus, the Respondent submits that there will be little, if any, contestation to its judicial review application. If the Federal Court grants the order being sought, the re-hearing of the complaint will no longer be necessary. The Respondent is therefore seeking an adjournment pending the conclusion of the Federal Court proceedings.

[3] However, as the Commission has pointed out, the Tribunal Chairperson has recently made a motion to intervene into the hearing of the judicial review application. This motion for intervention will be heard by the Court on October 22, 2008.

[4] It is not clear at this time what bearing the outcome of this motion may have on the ultimate determination of the judicial review. The Federal Court may still dismiss the judicial review application, notwithstanding the respective positions of the principal parties, in which case any adjournment would result in an unnecessary delay in the process. As Justice Harrington indicated in his ruling on the Respondent's previous motion for a stay of proceedings in this case, "Une suspension d'instance causerait une perte de temps précieux si la demande de contrôle judiciaire est rejetée, que ce soit en première instance ou en appel." (*Procureur général du Canada (les Forces canadiennes) c. Montreuil*, 2008 CF 530 at para. 37).

[5] The Commission points out that this human rights complaint alleges discriminatory practices dating back to 1999. The complaint was filed in 2002 and was referred to the Tribunal in 2005. Proceedings before the Tribunal are to be run as informally and expeditiously as the requirements of natural justice and procedure allow (s. 48.9 (1) of the *Canadian Human Rights Act*). The Tribunal may adjourn its proceedings at its discretion having regard to principles of natural justice (see *Brooks v. Canada (Fisheries and Oceans)*, 2007 CHRT 4 at para. 6). Some examples of natural justice concerns to which the Tribunal could respond would include the unavailability of evidence, the need to adjourn to obtain counsel, or late disclosure by an opposite party.

[6] In the present case, just as in the *Brooks* case, one cannot predict the final outcome of the judicial review proceedings. For the Respondent to obtain an adjournment, it must demonstrate that allowing the Tribunal proceedings to follow their course will result in a denial of natural justice. The Respondent has not, in my view, established that any such prejudice would come to it.

[7] The Respondent brought up in its motion that the parties may not be available for the re-hearing until January 2009, based on statements that they made back in August 2008. Aside from the fact that these alleged declarations of availability may no longer be accurate, I fail to see their relevance to this discussion. Counsel and parties will always have busy schedules. This should not preclude the Tribunal from advancing the hearing process in an expeditious fashion, as mandated by the *Act*.

[8] For these reasons, the Respondent's motion for an adjournment is dismissed.

Athanasios D. Hadjis

OTTAWA, Ontario
October 16, 2008

PARTIES OF RECORD

TRIBUNAL FILE:	T1047/2805
STYLE OF CAUSE:	Micheline Montreuil v. Canadian Forces
RULING OF THE TRIBUNAL DATED:	October 16, 2008
APPEARANCES:	
Micheline Montreuil	For herself
Ikram Warsame	For the Canadian Human Rights Commission

Guy Blouin / Claude Morissette

For the Respondent