

Canadian Human
Rights Tribunal



Tribunal canadien
des droits de la personne

Between:

Suzanne Larente

Complainant

- and -

Canadian Human Rights Commission

Commission

- and -

Canadian Broadcast Corporation

Respondent

Ruling

Member: Roger Doyon

Date: June 26, 2003

Citation: 2003 CHRT 23

[1] On April 23, 2002, the Tribunal decided to allow Suzanne Larente's complaint, brought under section 7 of the *Canadian Human Rights Act* against the Canadian Broadcasting Corporation.

[2] The Tribunal ordered the Canadian Broadcasting Corporation to reinstate Suzanne Larente, at the first reasonable opportunity, in her position as human resources advisor, which she held at the time of her termination and to restore the pension plan to which she would have been entitled had she not been terminated.

[3] On November 3, 2003, Suzanne Larente made an application to the Tribunal that resembled a motion for particulars. She asked the Tribunal to determine who would have to assume the costs related to re-establishing the pension plan to which she would have been entitled had she not been terminated.

[4] The Canadian Human Rights Commission and the Canadian Broadcasting Corporation were notified of Suzanne Larente's application.

[5] The Canadian Human Rights Commission informed the Tribunal that it had no submissions to make in relation to Suzanne Larente's application.

[6] The Canadian Broadcasting Corporation filed written submissions and applicable case law with the Tribunal. It argued that Suzanne Larente's application could not be heard because the decision and the orders made by the Tribunal on April 23, 2003, were final. The Tribunal no longer had jurisdiction; it was *functus officio*. Accordingly, it could not hear Suzanne Larente's application.

[7] The Canadian Broadcasting Corporation's submissions were sent to Suzanne Larente, who communicated her comments and arguments.

[8] The Tribunal has the parties' arguments. In its opinion, it is sufficiently informed to take a position without it being necessary to hear the parties.

[9] In her application, the complainant Suzanne Larente is seeking a decision by the Tribunal regarding the steps to follow to enforce the decision made by it. The Tribunal must therefore determine if it has jurisdiction to reopen the matter and hear additional evidence in order to set out the enforcement of its decision.

[10] In the decision that was made, the Tribunal did not reserve any jurisdiction in regard to the enforcement of the order to restore the pension plan to which Suzanne Larente would have been entitled had she not been terminated.

[11] Accordingly, as soon as the Tribunal made its decision, that decision was final. The Tribunal thereby lost all jurisdiction. It became bound by the *functus officio* rule. The legal term *functus officio*, according to *Black's Law Dictionary*, is defined as follows:

"Having fulfilled the function, discharged the office, or accomplished the purpose, and therefore of no further force or authority. "

[12] Further, section 57 of the *Canadian Human Rights Act* clearly provides that the enforcement of orders by the Tribunal is under the jurisdiction of the Federal Court.

[13] Considering the *functus officio* rule and the case law on that subject, the Tribunal finds that the *functus officio* rule is applicable to this application and that it does not have jurisdiction to determine who must assume the costs related to re-establishing the pension plan to which Suzanne Larente would have been entitled had she not been terminated.

Conclusion

[14] Accordingly, the application is dismissed.

Signed by

Roger Doyon
Tribunal Member

Ottawa, Ontario
June 26, 2003

Canadian Human Rights Tribunal

Parties of Record

Tribunal File: T638/2601

Style of Cause: Suzanne Larente v. Canadian Broadcasting Corporation

Ruling of the Tribunal Dated: June 26, 2003

Date and Place of Hearing: November 21 to 23 and November 27 and 28, 2001
December 13 and 14, 2001

Montreal, Quebec

Appearances:

Suzanne Larente, for herself

Philippe Dufresne, for the Canadian Human Rights Commission

Pierre Flageole, for the Respondent