

CANADIAN HUMAN RIGHTS TRIBUNAL TRIBUNAL CANADIEN DES
DROITS DE LA PERSONNE

RICHARD WARMAN

Complainant

- and -

CANADIAN HUMAN RIGHTS COMMISSION

Commission

- and -

CANADIAN HERITAGE ALLIANCE

- and -

MELISSA GUILLE

Respondents

RULING

MEMBER: Karen A. Jensen 2006 CHRT 17
2006/04/05

[1] I have had the opportunity to review the parties' submissions on the issue of venue for the hearing into this complaint.

[2] The complaint involves allegations that the Respondents, Ms. Melissa Guille and Canadian Heritage Alliance, communicated hate messages through an Internet website in violation of s. 13(1) of the *Canadian Human Rights Act*. The Complainant, Mr. Richard Warman, claims to have viewed the website on a computer in Ottawa, where he resides. Ms. Guille states that her computer location at the time of the alleged communications was in Kitchener or London, Ontario.

[3] The Complainant requests that the complaint be heard in Ottawa. In the alternative, he requests that the matter be heard in Toronto. The Canadian Human Rights Commission takes the same position. Ms. Guille requests that the matter be heard in Kitchener or London. In the alternative, she requests that the matter be heard in Toronto.

[4] It is the usual practice of the Tribunal to hold hearings in the place where the alleged discrimination occurred. However, this is not a hard and fast rule and the Tribunal strives to accommodate the parties where it is appropriate to do so (*Baumbach v. Deer Lake Education Authority* 2004 CHRT 13).

[5] In *Warman v. Lemire* 2006 CHRT 7, this Tribunal noted that in cases such as this involving the alleged communication of hate messages over the Internet, it is difficult to fix the location where the discrimination allegedly occurred. Did it occur where the messages were viewed on the Complainant's computer? Or, did it occur in the location of

the Respondent's computer where the messages were alleged to have been communicated?

[6] In *Warman v. Lemire*, the Tribunal determined that the place most closely connected with the alleged discriminatory conduct was the greater metropolitan area where the Respondent was located. The Tribunal accommodated both parties' needs with respect to the venue within the greater metropolitan area for the hearing.

[7] Arguably, the place most closely associated with the alleged discriminatory conduct in this case is the London area. The Complainant, however, has stated that he would suffer serious hardship if he was required to attend a hearing in the London area. Although a hearing in Toronto would still result in some hardship, it would be less so. In her submissions, Ms. Guille stated that although she would prefer London or Kitchener as the venue for the hearing, she would accept Toronto as an alternative venue.

[8] The witnesses and parties in this case are from Ottawa and the London area, with the possibility of an expert witness which has yet to be determined.

[9] In view of the above-noted factors, I am of the view that the best way to accommodate the needs of the parties and the witnesses in this case is to hold the hearing in Toronto. Both the Respondent and the Complainant have stated that they would experience significant hardship if the hearing was held in the opposing party's preferred venue and both have proposed Toronto as the alternative to their preferred venue. The Commission is in agreement that Toronto is an acceptable alternative venue.

[10] Accordingly, I direct the hearing into this complaint to be held in Toronto. The exact address is to be determined and will be communicated to the parties by the Tribunal at a later time.

"Signed by"

Karen A. Jensen

OTTAWA, Ontario
April 5, 2006

PARTIES OF RECORD

TRIBUNAL FILE:	T1089/7005 and T1090/7105
STYLE OF CAUSE:	Richard Warman v. Canadian Heritage Alliance and Melissa Guille
RULING OF THE TRIBUNAL DATED:	April 5, 2006
APPEARANCES:	

Richard Warman	For himself
Giacomo Vigna/ Ikram Warsame	For the Canadian Human Rights Commission
Melissa Guille	For herself and for the Respondent, Canadian Heritage Alliance