TRANSLATION FROM FRENCH

TD 1/ 87

Decision rendered on January 27, 1987

CANADIAN HUMAN RIGHTS TRIBUNAL

GUILLAUME KIBALE, Appellant,

- and

TRANSPORT CANADA, Respondent.

BEFORE: Gilles Mercure, Chairman
Niquette Delage, Member
Vincent Fleury, Member

DECISION OF THE REVIEW TRIBUNAL

APPEARANCES:

Guillaume Kibale Representing himself

Jean- Marc Aubry André Bluteau James Mabbutt Counsel for the Respondent

Anne Trotier Counsel for the Canadian Human Rights Commission

>This Tribunal was established under section 42.1(b) of the Canadian Human Rights Act to hear an appeal from the decision rendered on September 5, 1985, in which the complaint filed by the complainant, Guillaume Kibale, was dismissed.

In his notice of appeal and both his written and oral arguments, the appellant claimed that the initial tribunal had erred in fact and in law when it ruled that the evidence presented at the hearing did not allow the conclusion that the respondent had denied Mr. Kibale employment on a prohibited ground of discrimination, in contravention of sections 3(1) and 7(a) of the Canadian Human Rights Act.

Having thoroughly examined the testimony and exhibits presented before the initial tribunal and the evidence and arguments presented during the appeal, this Tribunal cannot, for the reasons stated hereafter, overturn the ruling under appeal.

I. THE FACTS

The pertinent facts in this dispute were well summarized by the initial tribunal. For this reason, we shall simply give a brief account of the circumstances that led the appellant to file a

complaint with the Canadian Human Rights Commission. We shall undertake a more detailed analysis of certain facts submitted in evidence when stating the actual reasons for our decision.

The appellant, who is black, responded to a notice of competition for the position of Economist, Strategic Analysis, with Transport Canada, the respondent. The position was at the ES- 4 level, and the reference number was T- EX- 5171.

Having passed the screening phase, the appellant was invited to appear before a selection board on July 15, 1981, in Ottawa. The board members were Jean Boulakia and John Sylvester.

The appellant placed first among the candidates interviewed by the selection board. Both board members gave him the best marks.

A few days later, the appellant and Mr Datta, who was ranked second by Dr Boulakia, were called to the office of Dr Zissis Haritos, who at that time was Dr Boulakia's immediate supervisor and Director General of the unit in which the vacant position T- EX- 5171 was located. Dr Boulakia was responsible for setting up this meeting and asked both candidates to bring along some work they were proud of.

The appellant was interviewed by Dr Haritos in the latter's Ottawa office on July 28, 1981. Dr Boulakia was present for only the first part of the meeting. The appellant claimed that after Dr Boulakia left, Dr Haritos had asked him a number of questions about the ethnic and racial origin of his wife.

During a lengthy telephone conversation on August 14, 1981, Dr Haritos confirmed what the appellant had already been told by Dr Boulakia, namely that he would not be given the position.

On August 27, 1981, the appellant received a letter (Exhibit C- 8) from Lise Dagenais of Personnel Services stating that none of the applicants for the T- EX- 5171 position had been selected.

In the wake of these events, the appellant filed a complaint with the Canadian Human Rights Commission.

II. PRINCIPAL GROUNDS FOR THE APPEAL

In both his notice of appeal and his arguments, the appellant raised the question of the jurisdiction of the initial tribunal that heard his complaint. He claimed that the tribunal chairman had not been sworn in before the hearing began. He further held that the tribunal had displayed partiality in the course of the hearing.

The appellant also claimed that the tribunal had erred in assessing the evidence presented (his and his wife's testimony, in particular), and concluding that his complaint was unsubstantiated.

A. Want of jurisdiction and partiality of the initial tribunal

1. Jurisdiction of the tribunal

It appears from the file that the initial tribunal was lawfully established to hear the appellant's complaint, in accordance with the procedures set out in the Canadian Human Rights Act.

As we have seen, the appellant claimed that the tribunal chairman should have been sworn in before the hearing of his complaint began. The Canadian Human Rights Act states that the Commission may, at any stage after the filing of a complaint, request the President of the Human Rights Tribunal Panel to appoint a Human Rights Tribunal.

The Act does not stipulate that members of such tribunals are to be sworn in before hearing the complaint for which the tribunal was struck. In the absence of specific legislative provisions in this area, we do not believe that a lawfully established Human Rights Tribunal is divested of its authority to hear the complaint for which it was created if the members of the tribunal are not sworn in.

2. Impartiality of the initial tribunal

The appellant claimed on several occasions in his arguments that the initial tribunal had displayed partiality in its decision and in its conduct during the hearing. He accused the tribunal of having made insulting and unwarranted remarks about him.

We readily accept the principle that, before any tribunal, the individual citizen is justified in expecting not only that justice be done, but also that the tribunal conduct the inquiry in such a manner as to give the appearance that justice has been done. In light of our conclusions, we shall not spend time trying to decide if this Tribunal was the appropriate forum for determining whether the conduct of the initial tribunal was above reproach.

Let us simply say that the only evidence to which the appellant could refer this Tribunal, regarding conduct or comments he felt were insulting or unwarranted, or words that indicated bias or partiality on the part of the chairman of the initial tribunal, were two sentences taken out of context. The appellant felt the following statement by the [initial] tribunal was insulting:

[TRANSLATION] MR CHAIRMAN: Mr Kibale, that is something for you and your psychiatrist to discuss, that is, the source of your information and your mental state or condition, it is up to you to respond, I don't know . . .

It is immediately clear from the transcript of the hearing that this statement by the tribunal chairman was in no way intended to insult the appellant. It was made during the lengthy questioning of Dr Haritos by the appellant himself. The appellant, who was not represented by counsel, examined and cross- examined the witnesses himself. On several occasions, the tribunal felt it appropriate to step in and help him clarify his questions. On this particular occasion, the tribunal intervened immediately after counsel for the respondent objected to the following question from the appellant:

[TRANSLATION] MR KIBALE: To be more specific, it is very simple, I will repeat another question, even though I may ask it a thousand times, Mr Chairman, how did I know Dr Haritos worked for the Transport Commission . . .

MR AUBRY: That is for him to say.

MR CHAIRMAN: Mr Kibale, that is something for you and your psychiatrist to discuss, that is, the source of your information and your mental state or condition, it is up to you to respond, I don't know. The witness cannot tell you how you learned that he worked for the CTC. (pp 157-158)

The other remark by the initial tribunal about which the appellant was critical and which, in his view, reflected the tribunal's partiality was quoted by him as follows: [TRANSLATION] "I get the impression that there is not a lot of discrimination in the Public Service of Canada." The transcript of the hearing shows that what the chairman of the tribunal actually said was:

[TRANSLATION] MR CHAIRMAN: I don't get the impression that there is a lot of discrimination in the Public Service of Canada, what with all the names I've been hearing. (p 531)

The transcript also shows that this comment was made in jest by the tribunal in reference to all the foreign- sounding names that had been referred to throughout the hearing, particularly the one the witness had just mentioned.

In any event, suffice it to say that this Tribunal, having examined the entire transcript, is convinced that the comments made by the initial tribunal reflect its constant effort to afford all parties the opportunity to state their case and submit any pertinent evidence. The chairman himself asked questions which he believed were in order. On numerous occasions, he felt it necessary to help the appellant submit evidence and examine or cross- examine witnesses.

The appellant has not convinced this Tribunal that the initial hearing was marred by irregularities, or that he did not receive an impartial hearing.

B. Assessment of the evidence by the initial tribunal

The appellant accused the initial tribunal of failing to accept the irregularities in the hiring process as evidence that he was the victim of unlawful discrimination.

It should be remembered that, in its decision, the initial tribunal cited a number of irregularities in the selection process, a process which should have resulted in positions T- EX- 5171, T- EX-5163 and T- EX- 5183 being awarded to the candidates with the best marks. Since the initial tribunal reviewed these major flaws and discussed the confusion surrounding the competition - a competition it described as "irretrievably irregular" - we feel it is futile to reiterate the long list of problems.

Let us simply mention one example: Dr Haritos did not sign the PSC253 form as required by the staffing manual and internal directives. He was not directly involved in preparing the interview questions to be used by the selection board, or in weighting the marks for each question. He was not part of the selection board, but reserved the right of final say on who would be chosen for the T- EX- 5171 position. He failed to issue clear, written directives defining the role his subordinate, Dr Boulakia, would play in the hiring process. Dr Boulakia and Mr Sylvester could not foresee the difficulties that would inevitably be created by improper use of piggybacking to staff two positions which they later said were by no means alike and did not have the same requirements or qualifications. Mr Sylvester gave the highest marks to the appellant, and later stated that the appellant had been judged the best candidate for the T- EX- 5171 position in Dr Boulakia's division, but could not be considered the best applicant for positions T- EX- 5163 and T- EX- 5183 in his [Sylvester's] own division.

All this led to the confusing and, for the division heads, often inextricable situation that was described in length during the hearing and well summarized by the initial tribunal in its decision. Dr Haritos and Dr Boulakia did not agree on the role each was to play in selecting candidates for the T- EX- 5171 position. There was pressure to have the marks reconciled in order to ensure at least some measure of consistency. Dr Haritos and Mr Sylvester had some heated discussions, each hoping the other would hire the appellant for his own division so that the problem would be resolved.

The result was that both Dr Boulakia and Mr Sylvester gave the appellant the best marks. None the less, the appellant did not get the job.

The respondent argued that no laws had been violated during the competition. At the very most, it stated, there were departures from purely administrative requirements. One of the witnesses, Mr Murdoch, told the hearing that senior officials sometimes delegated subordinates to select candidates but reserved the right of final decision, especially when they did not have complete confidence in the subordinate's judgment.

Nevertheless, for the uninitiated in general and the applicants in particular, it is difficult to place much faith in a competition held under such conditions. When the ground rules - even if they are established only by the staffing manual and internal directives - are changed at the whim of officials from the unit in which there is a vacancy or at the discretion of personnel officers, or when they are simply ignored altogether, the unsuccessful candidates may be left wondering.

Having said this, the present Tribunal agrees with the principle stated by the initial tribunal regarding the jurisdiction of a Human Rights Tribunal:

The Human Rights Tribunal does not have the power to monitor and supervise the operation of the staffing process under the Public Service Employment Act and the regulations made by virtue of the Act. (...) Although the Human Rights Tribunal found irregularities in the hiring process, its powers are limited to stating whether or not these irregularities were motivated by a prohibited ground of discrimination.

Otherwise stated, under the Act, the Human Rights Tribunal does not have the power to monitor and supervise the way in which the respondent exercised the hiring authority delegated to it by the Public Service Commission.

We must therefore try to determine whether the appellant was denied employment on a prohibited ground of discrimination based on race, national or ethnic origin, or colour.

1. The irregularities in the selection process do not in themselves prove the existence of a prohibited ground of discrimination.

The Review Tribunal in Julius Israeli and the Canadian Human Rights Commission and the Public Service Commission stated the following in its decision of April 4, 1984:

At the same time we do accept Dr Israeli's submission that, if members of a minority or disadvantaged group can show that they have been the victims of irregularities, it can give rise to an inference that they have been discriminated against, in the absence of some more credible alternative explanation. Whether this inference should be drawn, however, involves weighing all of the evidence.

In the present case, careful study of the issue leads us to conclude, as did the initial tribunal, that the testimony and exhibits do not offer proof that any of the parties involved in this hiring process acted on a prohibited ground of discrimination.

With the exception of his alleged statement to the appellant on the telephone, which we will deal with later, there is no evidence that Dr Haritos refused the appellant on a prohibited ground of discrimination. He had reserved the right of final decision, and, after his interview with the appellant, said that he disagreed with the choice made by his subordinate, Dr Boulakia. The appellant testified that, during the interview on July 28, 1981, Dr Haritos had asked him questions about his wife's race and national or ethnic origin. It should be remembered that the appellant's wife is a Canadian citizen, white and of Quebec origin. Dr Haritos denied having asked such questions but did admit that, in an effort to put the appellant at ease, he had asked a few informal family- related questions and had even spoken of his own daughter's education. He claimed that the appellant had spoken somewhat enthusiastically of his own wife, children and parents. This in itself does not prove that the appellant was denied employment on a prohibited ground of discrimination. The initial tribunal concluded that Mr Sylvester's actions were the result of the fact that he had become trapped by using the piggybacking procedure to staff positions that were entirely different. He had 'given the appellant the highest marks but did not want to hire him for his unit.

The appellant has not shown that Mr Sylvester subsequently refused to recommend him for his unit on a prohibited ground of discrimination. If such had been the case, one wonders whether he would have given him the highest marks instead of disqualifying him at the selection board stage.

The appellant alleged that Mr Sylvester was indicating a desire to keep the appellant out of his unit when he stated, "that man is French", and cited this as evidence of unlawful discrimination.

It should be remembered that language is not one of the prohibited grounds of discrimination set out in section 3 of the Canadian Human Rights Act.

The appellant claimed that this statement by Mr Sylvester was a reference to ethnic origin. However, when the remark is put back into its proper context, we see that it was nothing of the kind. According to the testimony of Aliette Lavoie, what Mr Sylvester actually said to Dr Haritos was:

That man is French, he would have written French reports which nobody would have read. (p 1517)

The appellant drew the Tribunal chairman's attention to another of Mr Sylvester's remarks about him, namely "that man is kind of different". It would be difficult to see this as an indication of unlawful discrimination on the part of Mr Sylvester. Dr Haritos described the remark in the following manner:

First, he mentioned words to the fact that it may sound hypocritical on my part that how could I hire a person that cannot effectively communicate with the rest of my staff, most of the reports here in my group are written in English. Following that, he said . . . words to the effect that "in any case, this man is kind of different" and in the context he was referring to the personal stability of Mr Kibale and the way he presented himself to the Board, the Board at which Dr Boulakia and Mr Sylvester were present. (p 1575)

Finally, the appellant argued that Mr Sylvester had denied him the job because he favoured a candidate of Italian origin like himself. There is no evidence that Mr Sylvester is of Italian descent. The appellant himself claimed in his testimony that Mr Sylvester was in fact of Quebec origin and had anglicized his name to increase his chances of finding a job.

All that the evidence shows with regard to Lise Dagenais is that she tried to cover the system and put the pieces back together in the wake of the irregularities that had marred the selection process. There is no evidence that she acted on a prohibited ground of discrimination.

2. Statements allegedly made to the appellant concerning the unlawful discrimination of which he claimed to be a victim.

The appellant spoke of statements that Dr Haritos, Robert Bisaillon and an assistant to Mr Gravel allegedly made to him directly and to his wife. The statements suggested that he was the victim of actions based on prohibited grounds of discrimination. He accused the initial tribunal of refusing, in its decision, to consider this as direct evidence that he was denied employment in contravention of sections 3 and 7 of the Canadian Human Rights Act.

a) Zissis Haritos: According to the appellant's testimony, Dr Haritos told him, [TRANSLATION] "I'm refusing you the job because I myself was discriminated against when I first came to Canada." Dr Haritos allegedly made this remark during the telephone conversation of August 14, 1984, which, according to the evidence, lasted approximately an hour and a half.

The appellant's wife, who listened to only part of the conversation on an extension, also claimed to have heard Dr Haritos say this.

In his testimony, Dr Haritos denied having made the statement. He denied that he had told the appellant he was not giving him the job because he himself had been the victim of discrimination in the past. Dr Haritos went on to describe the details surrounding the telephone conversation.

Having studied all the evidence, we feel that the appellant has not demonstrated clear error on the part of the initial tribunal in assessing the facts and testimony relating to the probative force of the allegation that Dr Haritos made this remark.

b) Robert Bisaillon: In 1981, Robert Bisaillon was head of Personnel Services. The appellant testified that Mr Bisaillon had told him during a telephone conversation on August 25, 1981, that Dr Haritos was not giving him the job because he wanted to hire an Anglophone woman of Greek origin. The appellant's wife testified that she, too, had heard Mr Bisaillon say this. However, this was the only part of the conversation she listened to on an extension.

In his testimony, Mr Bisaillon denied having said such a thing, and denied having told the appellant - as the latter claimed in his testimony - how much he admired Idi Amin Dada.

There is no evidence that a woman of Greek origin subsequently obtained the position in Dr Haritos's unit, although the appellant did refer the Tribunal to a person by the name of Michael Daskalakis; it is not known if Mr Daskalakis ever found work with the Department.

c) Assistant to Mr Gravel: In 1981, there was a Mr Gravel with the Department of Transport; Mr Gravel was the supervisor of Anthony Stone, who testified at the hearing. The appellant testified that an assistant to Mr Gravel had told him there were units within Transport that refused to hire blacks because of the Department's trade relations with South Africa.

Mr Gravel's assistant did not testify. The appellant did not even know the name of this person. Nothing more need be said about the probative force of this allegation by the appellant.

In short, having analysed all the evidence, this Tribunal cannot conclude that the initial tribunal erred in its assessment of the testimony related to the remarks allegedly made to the appellant and his wife to the effect that the respondent's officials had denied him employment on prohibited grounds of discrimination.

3. Exhibit C- 15

The evidence shows that, since he had to go to Ottawa for the interview on July 28, 1981, the appellant was entitled to be reimbursed for his travel expenses. Not having received the cheque, he telephoned Dr Haritos's secretary, Ms Lavoie. After some inquiries were made, the appellant was told that the finance division had sent the cheque to the Transport Canada office in Montreal by mistake. The appellant went there to pick up an envelope that was addressed to him and supposedly contained the cheque he had been anxiously awaiting.

According to his and his wife's testimony, the appellant brought the envelope home and did not open it until he was in the kitchen with his wife. A slip of paper fell out of the envelope and onto the floor. The appellant picked it up and saw the words "no Black in Transport Canada" scrawled across it. The slip of paper was entered as Exhibit C-15.

All this took place in the summer of 1981. The initial tribunal did not learn of Exhibit C-15 until the hearing on March 29, 1985. The appellant made no reference to the note in his complaint of May 3, 1984, or in his statement to the tribunal. He told the tribunal that he had lost it. He explained that he had not paid much attention to the note, since the woman who had given him the envelope and whom he had later contacted had told him not to worry about it, as there were a few nuts around, even at Transport Canada. This woman did not testify, and her name is not known. The appellant later found the note at home and brought it to the tribunal.

In his testimony, the appellant claimed to have mentioned the note to Charles Lafrenière, Regional Director of the Canadian Human Rights Commission, when the latter was handling the complaint. However, Mr Lafrenière was very definite in his testimony:

[TRANSLATION] Q. Has anyone ever displayed this little note in your presence?

A. Displayed?

Q. Has anyone ever shown it to you?

A. This is the first time I've seen it today.

Q. This is the first time you've seen it?

A. Correct.

Q. Do you by chance recall any mention of the existence of such a note during any of your personal meetings with Mr Kibale? Did anyone ever mention to you that such a note might have been found or somehow given to Mr Kibale?

A. I don't remember having discussed it, at least during my conversations with the complainant; I don't recall him saying that such a note might exist. In fact, I think that if it had been mentioned, I would have considered it additional information that would certainly have affected my recommendation to the Commission regarding, that is, what action or how the Commission should have handled or should handle Mr Kibale's complaint; that is, should we investigate or simply go with our recommendation to appoint a tribunal to hear the case, but I do not - definitely not - remember having seen the note or anyone even mentioning to me that such a note existed.

The respondent requested expert analysis of Exhibit C-15. Marc Gaudreau, a document analyst with the RCMP, compared the writing on the note with samples of the appellant's handwriting. The report by Mr Gaudreau was entered as Exhibit R-6, the handwriting samples from the appellant as Exhibit R-5. The purpose of this expert analysis was twofold: to try to determine the

age of the ink on the note, and to identify any similarities between the writing on the note and the appellant's own handwriting.

According to the testimony and report of Mr Gaudreau, the ink on Exhibit C-15 had been on the market since 1979. Analysis of the handwriting enabled the expert to identify some similarities and some unexplained points, nothing more.

This Tribunal carefully read the testimony of Hatrice De Montmollin, an interpreter with the federal government. It scrutinized her account of the conversation she heard in the cafeteria on June 21, 1985, in which the appellant and his wife discussed the age of the ink and whether or not it could be determined. We were equally meticulous in our examination of the explanations given by the appellant and his wife in this regard.

In dealing with the probative force of Exhibit C-15, the initial tribunal wrote the following:

The Tribunal finds that there is no evidence that the note produced as Exhibit C-15 is a forgery. However, there is also no evidence linking the note to those who are accused of discrimination - that is, Dr Haritos and/ or Mr Sylvester. One could easily speculate on how the note found its way - if indeed it did - into the envelope containing the travel cost reimbursement cheque, and why Mr Kibale did not think it very important.

Having studied the evidence, this Tribunal concludes that the appellant has failed to demonstrate that the initial tribunal erred in assessing the facts and testimony relating to the probative force of Exhibit C-15.

4. Assessment of the testimony by the initial tribunal

As stated earlier, the appellant accused the initial tribunal, in his arguments, of having erred in its assessment of the testimonial evidence. He complained in particular that the decision did not make specific mention of the tribunal's view of the credibility of the testimony given by the various witnesses, especially that of the appellant's wife, Claire Soucy Kibale. This Tribunal cannot accept the appellant's arguments on this matter. There is no indication that the initial tribunal did not weigh the testimony of each witness, or that it did not take all the evidence into account in rendering a decision.

With regard to the credibility of the testimony given at the hearing, it should be kept in mind that this is a Review Tribunal. According to section 42.1(5) of the Canadian Human Rights Act, such tribunals must hear the appeal "on the basis of the record of the Tribunal whose decision or order is appealed from and of submissions of interested parties . . ." We therefore feel that a Review Tribunal must be cautious in its approach to the question of witness credibility. The Review Tribunal may overturn the previous tribunal's ruling on the credibility of the witnesses only if it finds that a clear error has been made in this area.

Unlike the Review Tribunal, the initial tribunal had an opportunity to hear all the witnesses, observe their behaviour and assess intonation and hesitation. It was able to interrupt, ask

questions and assess. This Tribunal could only read the testimony contained in some 2,000 pages of transcript.

In the present case, it has not been shown before this Tribunal that a clear error was committed in assessing the testimonial evidence and the credibility of the witnesses.

The appellant has not convinced this Tribunal that the decision under appeal should be overturned because of an error in law or in the assessment of the evidence.

FOR THESE REASONS, THE TRIBUNAL: DISMISSES the appeal, the whole without costs.

Dated this 8th day of December, 1986.

(signed) Gilles Mercure, Chairman of the Tribunal

(signed) Niquette Delage, Member of the Tribunal

(signed) Vincent Fleury, Member of the Tribunal

CANADIAN HUMAN RIGHTS TRIBUNAL

GUILLAUME KIBALE, Appellant,

- and

TRANSPORT CANADA, Respondent.

BEFORE: Gilles Mercure, Chairman
Niquette Delage, Member
Vincent Fleury, Member

OPINION OF NIQUETTE DELAGE

Having deliberated the appeal filed by the appellant, Mr G Kibale, against a September 5, 1985, decision by a Canadian Human Rights Tribunal which dismissed the complaint filed by the complainant, Guillame Kibale;

For the reasons stated in the written opinion of Gilles Mercure, Chairman of the Canadian Human Rights Tribunal in the matter of Guillaume Kibale, appellant, and Transport Canada, respondent, which opinion is submitted with the present opinion;

I DISMISS the appeal, the whole without costs, but with special reference to one point I feel is worthy of note, this being done with the consent of the Chairman of said Tribunal, Gilles Mercure, and Tribunal member Vincent Fleury.

Page 29 of Gilles Mercure's written opinion deals with the credibility of the testimony given during the hearing before the initial tribunal. We felt, throughout the hearing of the appeal by Guillaume Kibale, that there were numerous contradictions. One particular area of concern was the "no Black in Transport Canada" note, Exhibit C- 15. Suffice it to offer the following example: pages 312, 319, 320, 322, 325, 329 and 331 of the August 1986 hearing (Volume 2, August 6, 1986) show that Guillaume Kibale's arguments clearly contradict his testimony of June 20, 1985, concerning Mr Kibale's statement to Josée Plamondon about the existence of the note (page 1567, Volume 9, transcript of the hearing before the initial tribunal). It should be pointed out that, on other occasions during his testimony at that hearing, Mr Kibale made similar remarks about witnesses who appeared before the initial tribunal and stated under oath that they had never heard of the note in question.

Since the Chairman of the Canadian Human Rights Tribunal, Gilles Mercure, has ruled on the credibility of the witnesses - a ruling we wholeheartedly endorse - we shall simply reiterate his conclusion: "We therefore feel that a Review Tribunal must be cautious in its approach to the question of witness credibility. The Review Tribunal may overturn the previous tribunal's ruling on the credibility of the witnesses only if it finds that a clear error has been made in this area. (...) In the present case, it has not been shown before this Tribunal that a clear error was committed in assessing the testimonial evidence and the credibility of the witnesses."

Dated this 8th day of December, 1986

(signed) Niquette Delage, Tribunal Member

CANADIAN HUMAN RIGHTS TRIBUNAL

GUILLAUME KIBALE, Appellant,

- and

TRANSPORT CANADA, respondent.

BEFORE: Gilles Mercure, Chairman
Niquette Delage, Member
Vincent Fleury, Member

APPEARANCES: Guillaume Kibale Representing himself

Jean- Marc Aubry, André Bluteau, James Mabbutt Counsel for the Respondent

Anne Trottier Counsel for the Canadian Human Rights Commission

OPINION OF VINCENT FLEURY

>The undersigned concurs with the opinion expressed in the decision of the Chairman of this Tribunal, Gilles Mercure, and with that expressed by Niquette Delage.

CONSEQUENTLY, for the reasons stated in both the decision by the Chairman and the opinion of Niquette Delage, I DISMISS THE APPEAL, THE WHOLE WITHOUT COSTS.

(signed) J- Vincent Fleury, Tribunal Member