

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

MARC GENEST

Complainant

- and -

CANADIAN HUMAN RIGHTS COMMISSION

Commission

- and -

BELL MOBILITY INC.

Respondent

RULING ON MOTION FOR DISMISSAL OF A COMPLAINT

2003 CHRT 36
30/10/2003

MEMBER: Roger Doyon

[TRANSLATION]

[I. INTRODUCTION 1](#)

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I. INTRODUCTION

[1] On November 4, 2000, Marc Genest filed a complaint with the Canadian Human Rights Commission ("the Commission") against his employer, Bell Mobility Inc. ("Bell Mobility").

[2] In the reasons for his complaint, Marc Genest maintains that his employer discriminated against him in denying him the right to buy life insurance for his same-sex spouse in like manner as for a different-sex spouse. He thus claims that his employer differentiated adversely in relation to him in the course of his employment because of his sexual orientation and his marital status, in contravention of section 7 of the *Canadian Human Rights Act* ("the Act").

[3] The complainant's common-law spouse died on February 16, 1998. The complainant received no life-insurance benefit following this death.

[4] The respondent has submitted to the Tribunal a motion for dismissal of Marc Genest's complaint on the ground that it was filed late. In support of this claim, the respondent invokes the application of subsection 41(1) of the *Act* and its paragraph (e) which read as follows:

41 (1) Subject to section 40, the Commission shall deal with any complaint filed with it unless in respect of that complaint it appears to the Commission that (e) the complaint is based on acts or omissions the last of which occurred more than one year, or such longer period of time as the Commission considers appropriate in the circumstances, before receipt of the complaint.

[5] The last of the events giving rise to the complaint occurred upon the death of the complainant's spouse, to wit, on February 16, 1998, and the complaint was filed on November 4, 2000.

[6] The respondent considers that the complaint was filed more than one year after the last of the events on which it is based occurred.

[7] It finds fault with the Commission for having decided to deal with the complaint even though the complainant has given no explanations or reasons to warrant his being given more than one year to file his complaint.

[8] The respondent is therefore asking the Tribunal to dismiss Marc Genest's complaint because it was filed late. The respondent's motion raises the issue of whether the Canadian Human Rights Tribunal has the power to examine and rule on decisions of the Commission.

The *Vermette* case¹ provides an answer to this question.

It is clear that a Human Rights Tribunal does not have the power to quash a decision of the Commission that has been made under section 41(1)(e) of the *Act*...

[9] Moreover, in *Oster*² and *Parisien*,³ it has been firmly established that only the Federal Court has the power to oversee measures and decisions of the Commission.

II. CONCLUSION

[10] Therefore, the respondent's motion is denied

Roger Doyon

October 30, 2003

OTTAWA, Ontario

¹Canadian Human Rights Commission v. C.B.C. et al (1996), 120 F.T.R. 81.

²International Longshore and Warehouse Union (Marine Section) Local 400 v. Helen Oster and Canadian Human Rights Commission (2001) 42 C.H.R.R. D/1.

³Alain Parisien and Canadian Human Rights Commission v. Ottawa-Carleton Regional Transit Commission, Decision No.1, 15 July 2002.

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RULING OF THE TRIBUNAL
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APPEARANCES:
Noël Saint-Pierre For the Complainant
Patrick O'Rourke For the Canadian Human Rights
Commission
Dominique Benoît For the Respondent