

RACHEL TOURANGEAU

Complainant

- and -

CANADIAN HUMAN RIGHTS COMMISSION

Commission

- and -

GREYHOUND CANADA TRANSPORTATION CORPORATION

Respondent

RULING

MEMBER: Athanasios D. Hadjis

2008 CHRT 2
2008/01/11

[1] The Respondent, Greyhound Canada Transportation Corp. (Greyhound), alleges that the Complainant, Rachel Tourangeau, has shown "complete indifference" in the prosecution of her complaint and that as a result she has abandoned her claim. Greyhound has therefore moved to dismiss the complaint.

Facts

[2] Ms. Tourangeau filed her human rights complaint with the Canadian Human Rights Commission (Commission) on April 13, 2006. She alleged in her complaint that the staff at Greyhound's bus terminal in Fort McMurray, Alberta, subjected her to discriminatory treatment on the basis of her race and national/ethnic origin, when she attempted to pick up her ticket and board a bus, on March 10, 2006.

[3] The Commission referred her complaint to the Tribunal on March 8, 2007, along with a form setting out the "current" contact information of the parties. The Tribunal, in turn, began contacting the parties as part of its case management process. Unfortunately, the Tribunal's attempts to reach Ms. Tourangeau at the address provided by the Commission proved fruitless. Letters that the Tribunal had mailed to her, which included notices convening her to participate in case management conference calls, were returned with an indication from the post office that she had moved.

[4] The Commission informed the Tribunal that it did not know Ms. Tourangeau's new address but that it had managed to find the address of her daughter. The Commission suggested that this address be used as an alternate for the purpose of serving documents on Ms. Tourangeau. The Tribunal therefore sent a letter to Ms. Tourangeau, by courier, care of her daughter's address. The letter was returned to the Tribunal marked "unclaimed".

[5] On October 30, 2007, Greyhound filed its present motion with the Tribunal. Greyhound sent a copy of its Notice of Motion to Ms. Tourangeau care of her daughter's address by registered mail. This time, the document was accepted by her daughter, and on November 28, 2007, Ms. Tourangeau called the Tribunal to provide her current contact information.

[6] On December 6, 2007, Ms. Tourangeau mailed her submissions in reply to the present motion in which she states that she is "still interested" in pursuing her complaint against Greyhound and that she is "very sorry" that the Tribunal was unable to reach her by mail or telephone. She explained that she was "certain" that she had given her new address to "someone from Human Rights" who had contacted her at an earlier point.

Analysis

[7] Greyhound contends that the Tribunal should dismiss the complaint due to Ms. Tourangeau's "failure to advance her own complaint or to participate in the process in any manner since the very early stages of filing her complaint".

[8] The Tribunal may dismiss an action for delay or want of prosecution in instances where there has been an inordinate and inexcusable delay that is likely to seriously prejudice the defendants or, alternatively, where the case has remained static for an unreasonable length of time, such that the delay constitutes an abuse of the Tribunal's process (see *Johnston v. Canadian Armed Forces*, 2007 CHRT 42 at paras. 29-34).

[9] In my view, the facts of this case do not justify a dismissal. The 21 month period that has elapsed since the complaint was filed is neither inordinate nor unreasonable. I do not find the delay inexcusable either. Ms. Tourangeau claims that she had given her new contact information to "someone from Human Rights". In this regard, Greyhound suggests that she probably provided that update after an earlier move. Greyhound referred me to a letter that a Commission-appointed conciliator had sent to Greyhound on January 24, 2007. In this letter, the conciliator wrote that he had been slow in "following up" on the file because Ms. Tourangeau had "recently moved" and it had taken him "some time" to get in touch with her. Greyhound surmises that, given the Commission's subsequent inability to provide the Tribunal with her current whereabouts, she must have moved again thereafter, without providing her new address to the Commission. That may well be, but there is no evidence before me to indicate that this failure to update the Commission was anything more than an error of omission on her part. The delay created by this error is not inexcusable.

[10] I also draw no inference against Ms. Tourangeau from the fact that the letter sent by the Tribunal to her daughter was returned "unclaimed", whereas Greyhound's Notice of Motion that was later sent to the same address was accepted. I note that Ms. Tourangeau's current address is hundreds of kilometres away from her daughter's. I do not think it appropriate to hold Ms. Tourangeau responsible for the fact that her daughter failed to claim the Tribunal's earlier letter from the post office, and forward it on to her mother.

[11] Finally, I am not persuaded that Greyhound has been seriously prejudiced by the inconvenience it has experienced in this case, including participating in two case management conference calls that ultimately proved unproductive due to Ms. Tourangeau's absence.

[12] For these reasons, Greyhound's motion is dismissed. Ms. Tourangeau is, however, directed to inform the Tribunal of any future changes regarding her contact information as soon as they occur.

"Signed by"

Athanasios D. Hadjis

OTTAWA, Ontario
January 11, 2008

PARTIES OF RECORD

TRIBUNAL FILE:	T1198/1007
STYLE OF CAUSE:	Rachel Tourangeau v. Greyhound Canada Transportation Corporation
RULING OF THE TRIBUNAL DATED:	January 11, 2008
APPEARANCES:	
Rachel Tourangeau	For herself
No one appearing	For the Canadian Human Rights Commission
Joyce Mitchell	For the Respondent