

**TIINA BAUMBACH**

**Complainant**

**- and -**

**CANADIAN HUMAN RIGHTS COMMISSION**

**Commission**

**- and -**

**DEER LAKE EDUCATION AUTHORITY**

**Respondent**

**RULING ON VENUE**

MEMBER: J. Grant Sinclair

2004 CHRT 13

2004/04/27

[1] The complainant, Tiina Baumbach, filed a complaint against the respondent Deer Lake Education Authority on September 15, 2000. Ms. Baumbach worked as a grade school teacher with the respondent. In her complaint, she alleged that the respondent has discriminated against her by treating her differently and refused to continue to employ her, contrary to s.7 of the *Canadian Human Rights Act*.

[2] The Tribunal has scheduled hearing dates but the parties are not able to agree upon a venue for the hearing. The complainant has requested that the hearing be held in Ottawa. The respondent has asked that the hearing be held in Deer Lake, where the respondent is located and where the alleged discrimination occurred.

[3] The complainant suffers from a severe and prolonged disability which causes serious medical problems, the occurrence of which are unpredictable and which can last for very long periods of time. She has great difficulty traveling and the medical specialist who has treated her has recommended that she not travel at all.

[4] The complainant has pointed out that Deer Lake does not have the hearing, food, or accommodation facilities necessary to support a tribunal hearing. The respondent does not disagree with this and has suggested that the hearing could be accommodated by flying the parties in and out of Deer Lake every day to Red Lake, a short flight away. As a compromise, the respondent has suggested that the hearing be held either in Winnipeg or in Thunder Bay, two locations with which the members of the respondent are familiar and comfortable.

[5] In its submissions, the respondent points out that there will be five members of the respondent board and the education director involved in the hearing. The respondent will incur significant costs to attend a two week hearing in Ottawa. Further, English is not the first language of the respondents and although some members of the respondent are fluent in English and Oji-Cree, others are not. It is likely that an interpreter from the area, who can speak the same dialect as the board members, will be required. The respondent also notes that to require the board members to travel to Ottawa from their remote

northern Ontario Community, will impose a hardship on the board members, and particularly those who do not speak English.

[6] It is the usual practice of the Tribunal to hold hearings in the place where the discrimination has 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. In this case *both* parties require accommodation. The accommodation sought by the complainant, holding the hearing in Ottawa does not serve the needs of the respondent. Similarly, the accommodation sought by the respondent to have the hearing either in Thunder Bay or Winnipeg does not accommodate the needs of the complainant.

[7] The Tribunal has considered the submissions of both parties. Because in these circumstances it is not possible to accommodate the parties as they have requested, some other solution must be reached.

[8] Accordingly, the Tribunal has decided as follows:

- (1) The evidence of the complainant and any witnesses called on her behalf is to be given at a hearing held at the Tribunal offices in Ottawa. The witnesses will be subject to cross-examination by respondent counsel who will attend in person at the hearing.
- (2) The proceedings will be transmitted to members of the respondent by way of video conference facilities to be made available in Thunder Bay. Telephones will be available in the videoconferencing rooms in Ottawa and in Thunder Bay so that respondent counsel and members of the respondent can communicate as necessary.
- (3) The evidence of the respondent and any respondent witnesses will be given at a hearing to be held in Thunder Bay. These witnesses will be subject to cross-examination by complainant counsel who will attend in person at the hearing in Thunder Bay. The complainant will have access to these hearings by way of videoconferencing facilities at the Tribunal offices in Ottawa. Telephones will be provided in both the Tribunal offices in Ottawa and at the videoconferencing facilities in Thunder Bay to provide for communications between the complainant and complainant counsel.
- (4) Final argument including legal submissions will be done either in writing or by videoconferencing. If by videoconferencing, complainant counsel will attend at the Tribunal offices in Ottawa and respondent counsel at videoconferencing facilities in Thunder Bay. The method for final submissions will be determined by the member hearing the complaint, on submissions from counsel.
- (5) The costs of the videoconferencing will be borne by the Tribunal.

*Signed by*  
J. Grant Sinclair

OTTAWA, Ontario

April 27, 2004

**CANADIAN HUMAN RIGHTS TRIBUNAL**

**PARTIES OF RECORD**

TRIBUNAL FILE:

T860/11003

STYLE OF CAUSE:

Tina Baumbach v.  
Deer Lake Education Authority

RULING OF THE TRIBUNAL DATED:

April 27, 2004

APPEARANCES:

Judith Allen

For the Complainant

Fiona Keith

For the Canadian Human Rights  
Commission

Mike McCarl/Danalyne MacKinnon

For the Respondent