

**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

Responden

RULING

MEMBER: Pierre Deschamps

2007 CHRT 23
2007/05/29

[1] The Tribunal is seized of a complaint under section 13 of the *Canadian Human Rights Act* brought by Mr. Richard Warman against the Canadian Heritage Alliance and Ms. Melissa Guille.

[2] The hearing into this complaint began on November 21, 2006 in Toronto. On November 25, 2006, the hearing was adjourned, the date of its resumption to be determined at a later time.

[3] On January 4, 2007, a conference call took place in relation to the resumption of the present hearing. Participating were the Chairperson; the Registrar; Mr. Warman, the Complainant; Ms. Snider, the Commission's Counsel; Ms. Guille, one of the two Respondents; Mr. Fromm, as agent for the Respondent Canadian Heritage Alliance as well as Mr. Kulbashian, as agent for Ms. Guille.

[4] Initially, the purpose of the conference call was to consider how many days needed to be set aside in order to complete the hearing as well as when the hearing could resume,

given that Ms. Guille had stated that she had difficulties freeing herself from her work for more than 2 days in a row in a month and that she would not be able to do so before the month of August 2007, at the earliest.

[5] At the time, Mr. Warman and Ms. Snider expressed their disagreement with respect to Mr. Guille's request that, given her employment limitations, the hearing only resume in the fall and that it be for a few days here and there.

[6] During the January 4, 2007 conference call, many possibilities were examined with respect to the resumption of the hearing. It appeared then that Mr. Fromm, Mr. Warman and Ms. Snider were not available in February because of another human rights hearing, that the Tribunal member chairing the hearing was not available in March, April, May and July due to already scheduled or to be scheduled hearings, and had limited availability in June. As for Ms. Snider, she was not available in August.

[7] Thus, because of the lack of availability of the Tribunal member chairing the hearing as well as of the parties throughout the months of February to August, it became apparent that the hearing could not unfortunately resume before the month of September 2007.

[8] At the end of the conference call, which lasted for one hour and a half, after having explored and discussed the availability of the parties in the fall, everyone, Ms. Guille and Mr. Kulbashian included, agreed that the hearing could resume in September 2007. Four days were then set aside for the completion of the evidence, i.e. September 4 to 7 and two days, at the end of September, for oral pleadings, i.e. September 24 and 25. Everyone present on the conference call agreed with these dates.

[9] After the conference call, Mr. Kulbashian and Ms. Guille wrote to the Tribunal stating that they had felt pressured by the Tribunal to agree to the resumption of the hearing in September and asked that the Tribunal reconsider its decision.

[10] Following the January 4, 2007 conference call, many attempts were made by the Tribunal to arrange a second conference call to deal with dates and disclosure issues. However, given that it became close to impossible to have all the parties available at the same time, the Tribunal ordered that any request that any of the parties wished to submit to the Tribunal be made in writing.

[11] In a letter sent to the Tribunal, on March 27, 2007, Mr. Kulbashian indicated dates in the months of August, September, October and November 2007 where Ms. Guille would be available to attend the hearing with an indication of how many days in a row she could free herself. Mr. Kulbashian indicated in his letter that, in the month of September, Ms. Guille would be available September 5 to 7, 2007 **or** September 24 to 26, 2007. Mr. Kulbashian also suggested that the hearing be held in Toronto or Oakville.

[12] Human rights hearings should not be spread over long periods of time. The Tribunal's *Rules of Procedure* state that hearings should be conducted as expeditiously as possible. Hearings should thus be scheduled so as to have the hearing completed within a relatively short period of time.

[13] This said, there may be circumstances where, because of the lack of availability of the Tribunal member chairing the hearing as well as the parties and their counsel, hearing dates have to be set far apart which is the case in the present proceedings. This is not ideal.

[14] In the present case, the Tribunal considers that Ms. Guille has and has had ample time to make arrangements with her employer in order to be able to be present at the hearing on the already set dates. Ms. Guille cannot hold the present hearing at bay for

ever and have her personal situation determine the hearing schedule irrespective of other considerations.

[15] Mr. Warman and the Commission have indicated that they expect to have completed the presentation of their evidence within two days. At the present time, the only witness left to be heard is Mr. Warman. This said, Ms. Guille has yet to indicate if she will testify or not. Nonetheless, two days have been set aside in case she decides to do so.

[16] Thus, four days are scheduled for the parties to complete the presentation of their evidence. Given Ms. Guille's time constraints, the Tribunal does not exclude the possibility for the Tribunal, when the hearing resumes, to sit longer hours in order to have the hearing completed within three days.

[17] Furthermore, taking into consideration Ms. Guille's limited availability in September, i.e. a period of three days either at the beginning of the month or at the end of the month, the Tribunal finds that written submissions are warranted in the present circumstances instead of oral submissions. This measure will in fact eliminate the necessity for Ms. Guille to attend two hearing sessions in the month of September.

[18] For the above mentioned reasons, the hearing dates previously set with respect to the resumption of the hearing in Toronto, i.e. September 4 to 7, 2007, are confirmed. The hearing dates previously set aside for oral submissions, i.e. September 24 and 25, 2007, are cancelled. The parties will be requested to file written submissions.

"Signed by"

Pierre Deschamps

OTTAWA, Ontario
May 29, 2007

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:	May 29, 2007
APPEARANCES:	
Richard Warman	For himself
Ceilidh Snider	For the Canadian Human Rights

	Commission
Alexan Kulbashian	For Melissa Guille
Paul Fromm	For the Canadian Heritage Alliance