CANADIAN HUMAN RIGHTS TRIBUNAL TRIBUNAL CANADIEN DES DROITS DE LA PERSONNE

CECIL BROOKS

Complainant

- and -CANADIAN HUMAN RIGHTS COMMISSION

Commission

- and -DEPARTMENT OF FISHERIES AND OCEANS

Respondent

RULING

MEMBER: Dr. Paul Groarke 2005 CHRT 33 2005/08/31

- [1] Mr. Bagambiire acts for the Complainant. He has requested a formal order directing the Respondent to pay the costs awarded in my previous decision. The Respondent has objected.
- [2] Section 57 of the Canadian Human Rights Act states:
- 57. An order under section 53 or 54 may, for the purpose of enforcement, be made an order of the Federal Court by following the usual practice and procedure or by the Commission filing in the Registry of the Court a copy of the order certified to be a true copy.
- [3] I realize that sections 53 and 54 do not refer specifically to costs. I cannot see that it matters. The normal way of enforcing a decision of the Tribunal is to prepare a formal order, which can be filed with the Federal Court.
- [4] I agree with Mr. Bagambiire that the issuance of a formal order is an administrative act, which probably comes within the powers of any adjudicative body. The only reason for such an order is to provide a convenient summary of the terms of the award. This provides a clear direction to the public officers charged with executing the award.
- [5] Mr. Bagambiire goes further, however, and suggests that the Complainant has a common law right to such an order, subject to any objections to its form and content. I am inclined to agree with him. The order adds nothing to my previous ruling and simply declares that a certain decision has been made. It would be capricious to award the Complainant a remedy and then deny him the documentation that he needs to collect it.

- [6] There is another issue, however. Ms. Cameron acts for the Respondent. She has confirmed that the Respondent is seeking a review of my earlier ruling that the Tribunal has the power to award costs. As it turns out, the same question is presently before the Federal Court in another case. Ms. Cameron says that the situation is uncertain. She is uncomfortable with the idea that the Complainant would attempt to execute a formal order while my authority to issue it is under attack.
- [7] I agree with the Respondent that it would be better to see what the Court rules before the Complainant tries to execute the order. Having said this, I have come to the conclusion that this aspect of the matter is out of my hands. It seems to me that Mr. Bagambiire is right in saying that I have an obligation to follow my own ruling, and remain steadfast, until such time as the Federal Court rules otherwise. I would be changing my mind if I refused the order.

[8] The order will accordingly issue.

"Signed by"
Dr. Paul Groarke

OTTAWA, Ontario

August 31, 2005

PARTIES OF RECORD

TRIBUNAL FILE: T838/8803

STYLE OF CAUSE: Cecil Brooks v. Department of Fisheries

and Oceans

March 10-11, 2005

DATE AND PLACE OF HEARING:

Ottawa, Ontario

RULING OF THE TRIBUNAL DATED: August 31, 2005

APPEARANCES:

Davies Bagambiire

Standard Flaterer

For the Complainant

Stephen Flaherty

Scott McCrossin

Melissa Cameron For the Respondent