

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

**RAYMOND THWAITES, LEON M. EVANS, KEN GREEN,
PAUL PRENTICE, DONALD BARNES, GARY SCOTT AND BRIAN
MCDONALD**

Complainants

- and -

CANADIAN HUMAN RIGHTS COMMISSION

Commission

- and -

AIR CANADA PILOTS ASSOCIATION

Respondent

AND BETWEEN:

RAYMOND THWAITES, LEON M. EVANS AND KEN GREEN

Complainants

- and -

CANADIAN HUMAN RIGHTS COMMISSION

Commission

- and -

AIR CANADA

Respondent

RULING

MEMBER: Karen A. Jensen 2007 CHRT 44
2007/10/23

[1] Raymond Thwaites is a pilot with Air Canada. Mr. Thwaites and six other Air Canada pilots with Air Canada are required to retire at age 60 under the Air Canada Pilots Pension Plan.

[2] They filed complaints with the Canadian Human Rights Commission alleging that Air Canada and the Air Canada Pilots Association ("ACPA") discriminated against them on the basis of age, contrary to sections 7, 9 and 10 of the *Canadian Human Rights Act*. The complaints deal with Air Canada's mandatory retirement requirement at age 60.

[3] The Fly Past 60 Coalition ("the Coalition") requested interested party status in the complaints on October 1, 2007. The Coalition is a group of individuals who oppose the mandatory retirement rule at Air Canada. They are either currently employed as pilots at Air Canada or have recently been forced to retire pursuant to the requirement. The Complainants are all members of the Coalition.

[4] The Coalition seeks interested party status for the following reasons:

- (i) the interests of the members of the Coalition will be directly affected by the outcome in these complaints;
- (ii) ACPA is not representing the interests of the Complainants or the Coalition members in this matter, but rather is a respondent in the complaints;
- (iii) the Coalition will assist the Tribunal to make a fair and proper determination of the matters before it by presenting evidence and making submissions in support of the Complainants;
- (iv) the Coalition has members who have been directly involved in the management and affairs both of Air Canada Flight Operations and of ACPA, at the most senior level;
- (v) the Coordinator of the Coalition, Mr. Raymond Hall, is familiar with human rights law since he was a member of the Manitoba Human Rights Commission from 1991-1993;
- (vi) the Canadian Human Rights Commission is not participating in the proceedings and therefore, the Coalition's participation is needed to right the economic imbalance between the Complainants and the Respondents.

[5] The Respondents oppose the present motion. The Canadian Human Rights Commission did not participate in the motion, and has indicated that it will not participate in the Tribunal hearing of the complaints.

[6] Section 50 of the *Canadian Human Rights Act* gives the Tribunal discretion to grant interested party status. The onus is on the applicant to demonstrate how its expertise will be of assistance in the determination of the issues. Interested party status will not be granted if it does not add significantly to the legal positions of the parties representing a similar viewpoint: *Schnell v. Machiavelli and Associates Emprize Inc.*, [2001] C.H.R.D. No. 14 at para. 6 (C.H.R.T.) (QL); *Nkwazi v. Canada (Correctional Service)*, [2002] C.H.R.D. No. 15 at para. 22 (C.H.R.T.) (QL); *Warman v. Lemire* 2006 CHRT 8.

[7] There is nothing in the Coalition's application to indicate that it would provide assistance or expertise during the proceedings that could not be presented by the Complainants. Indeed, the Coalition states that it has the same viewpoint and interests as the Complainants; it seeks only to support the Complainants.

[8] As members of the Coalition, the Complainants may be entitled to draw upon the resources of the Coalition to assist them with their complaints. In fact, Mr. Hall, the Coordinator of the Coalition, has indicated that he is representing some, if not all, of the Complainants in the present complaints. As a Complainant representative, Mr. Hall is free to call Coalition members to testify about the issues raised in the complaints, and to offer his expertise in human rights law and policy during his submissions to the Tribunal.
[9] For these reasons, the Coalition's request for interested party status is denied.

"Signed by"

Karen A. Jensen

OTTAWA, Ontario
October 23, 2007

PARTIES OF RECORD

TRIBUNAL FILE:	T1196/0807 and T1197/0907
STYLE OF CAUSE:	Raymond Thwaites et al. v. Air Canada Pilots Association and Raymond Thwaites et al. v. Air Canada
RULING OF THE TRIBUNAL DATED:	October 23, 2007
APPEARANCES:	
No submissions made	For the Complainants
No submissions made	For the Canadian Human Rights Commission
Raymond Hall	For Fly Past 60 Coalition
Bruce Loughton, Q.C.	For the Air Canada Pilots Association
Fred Headon	For Air Canada