

Canadian Human
Rights Tribunal



Tribunal canadien
des droits de la personne

Between:

Fiona Ann Johnstone

Complainant

- and -

Canadian Human Rights Commission

Commission

- and -

Canada Border Services Agency

Respondent

Decision

File No.: T1233/4507R

Member: Robert Malo

Date: September 12, 2014

Citation: 2014 CHRT 28

Reference: 2010 CHRT 20

WHEREAS the Tribunal issued its decision in this matter on August 6, 2010;

AND WHEREAS the Federal Court and Federal Court of Appeal have allowed the Respondent's application for judicial review in part, and have referred the matter back to this Tribunal for reconsideration of its remedial orders;

AND WITH THE REASONS AND THE CONSENT OF THE PARTIES, as discussed during the case management conference call held on September 12, 2014, **AND PURSUANT** to the Reasons for Judgment and Judgment of the Federal Court, dated January 31, 2013, and the Reasons for Judgment and Judgment of the Federal Court of Appeal, dated May 2, 2014, copies of which are appended hereto;

1. **THE TRIBUNAL ORDERS** that paragraphs 367 and 375 of its Decision dated August 6, 2010, is amended as follows:

Systemic Remedy

...

[367] In order that Ms. Johnstone and other employees in her like situation not be deprived of future employment opportunities, wages and benefits, this Tribunal further orders that CBSA establish written policies **in consultation with the Canadian Human Rights Commission** to address family status accommodation requests within 6 months, and that these policies include a process for individualized assessments of those making such requests.

...

[375] Accordingly, this Tribunal orders that Ms. Johnstone be compensated for her lost wages and benefits, including overtime that she would have received and pension contributions that would have been made had she been able to work on a full-time basis from January 4, 2004 to **August 13, 2007**. This Order includes a direction that Ms. Johnstone be entitled to effect pension contributions as a full-time employee during this relevant period. Ms. Johnstone is not entitled to lost wages due to attendance at this hearing.

DATED at Ottawa, this 12th day of September, 2014.

Signed by

Robert Malo, Tribunal Member