

*Tabled by Minister of Justice
2007. 11. 14.
WJK.*

**HUMAN RIGHTS COMMISSION
Panel of Adjudicators**

Province of Newfoundland and Labrador

Annual Report

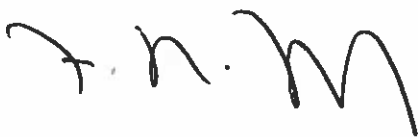
April 1, 2005 – March 31, 2006

The Honourable Tom Osborne
Minister
Department of Justice
P.O. Box 8700
St. John's, NL
A1B 4J6

Dear Sir,

It is my pleasure as Chief Adjudicator appointed pursuant to Section 25 of the *Human Rights Code* to present to you the Adjudicator Panel's Annual Report for 2005-06.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'F. Stagg'.

FRED STAGG, Q.C.
Chief Adjudicator

TABLE OF CONTENTS

Introduction	1
Members of the Panel	1
Board of Inquiry Activity	2

INTRODUCTION

This is the second Annual Report of the Panel of Adjudicators appointed to act as Boards of Inquiry pursuant to section 25 of the *Human Rights Code*. This report will cover the same period as the current Annual Report for the Human Rights Commission – April 1, 2005 to March 31, 2006.

MEMBERS OF THE PANEL

The members of the panel as of March 31, 2006 were:

Fred Stagg, Q.C. - Chief Adjudicator
Cindy Picco
Kimberley Burridge
Kerry Hatfield
Edward Hearn, Q.C.
Erin Breen
John Babb
Karl Inder

BOARD OF INQUIRY ACTIVITY

The current panel of adjudicators which acts as Boards of Inquiry were appointed on November 4, 2004. While the panel did not issue any decisions for the reporting period, quite a few complaints were scheduled to be heard. What follows is a summary of the panel's activities for the reporting period.

1. ***Sean Ryan v. City of St. John's and the Canadian Union of Public Employees***

Mr. Ryan alleged that his employer, the City of St. John's and his union, the Canadian Union of Public Employees discriminated against him on the basis of his mental disability. Mr. Ryan suffers from a bipolar disorder. He was terminated from employment on December 1, 1998. An arbitration panel subsequently ordered that Mr. Ryan be reinstated into his former position. As part of the process associated with Mr. Ryan's return to work a Memorandum of Understanding was negotiated between his union and his employer which imposed conditions of employment. Mr. Ryan alleges that both his termination and the terms of the Memorandum of Understanding were discriminatory.

Twenty-two days of hearings were conducted during the 2004-05 reporting period. An additional five hearing days took place from April 4-11, 2006. The adjudicator ordered the parties to file a series of written submissions throughout 2005-06 and a decision is pending.

2. ***Sharon McEvoy v. Best of Care Ltd. and the Department of Health and Community Services***

Ms. McEvoy alleged that her employer, Best of Care Ltd., discriminated against her on the basis of her sex (pregnancy) when it acceded to the wishes of a client and permanently hired the Complainant's replacement while she was on maternity leave. The Complainant alleged that she was a competent home care worker prior to her pregnancy and that there had never been an issue with the quality of her work. She also alleged that as the Department of Health and Community Services provided funding for the home care services, it was responsible for any award of damages awarded by the Board of Inquiry.

The hearing took place on July 12-13, 2005 and a decision is pending.

3. *Evely et al v. Health Care Corporation of St. John's and the Newfoundland and Labrador Association of Public and Private Employees*

Nineteen female Licensed Practical Nurses filed complaints with the Commission alleging that the staffing schedule negotiated between their employer and union discriminated against them on the basis of their gender. The staffing policy provided for "male positions" for which only males could work and "person positions" which were available to males and females. As a result the female Licensed Practical Nurses had less chance to work and gain seniority. After the Commission's referral of the complaints to a Board of Inquiry, the employer and union agreed to change the policy. The only issue remaining was what, if any, damages the Complainants might be awarded.

The parties agreed that a determination by the Board of Inquiry on issues relating to the limitation period as contained in s.20 (2) of the Human Rights Code would facilitate a settlement of the damages issue. A hearing took place on September 13th to argue the issues and a decision is pending.

4. *Ann Hooper v. Canadian Corps of Commissionaires*

Ms. Hooper alleged that she was sexually harassed by her supervisor and co-workers while she worked at one location at which the Respondent provided security services. Specifically she alleges that she was subject to displays of pornography and sex toys which she found offensive. Officials of the Respondent deny the allegations. A hearing was held on March 7-9, 2006 and a decision is pending.

Six other complaints were scheduled but were settled prior to commencement.