



Record of Decision Under Sections 40/41

Complaint Information

File Number(s): 20070041
Date of Complaint(s): December 21, 2006
Complainant(s): Marc Lemire
Respondent(s): Richard Warman

Decision under section 41(1)

The Commission decided:

- for the reason(s) identified below, to deal with the complaint under section 41(1) of the *Canadian Human Rights Act*.
- for the reason(s) identified below, not to deal with the complaint under section 41(1)(d) of the *Canadian Human Rights Act*, because the complaint is trivial, frivolous, vexatious or made in bad faith.
- that a decision under section 41(1)(d) of the *Canadian Human Rights Act* is unnecessary given the Commission's decision in complaint(s) [] pursuant to section 41(1)().

Material considered when decision made

The following documents were reviewed:

- ▶ complaint form dated December 22, 2006
- ▶ Section 40/41 Report dated July 15, 2009
- ▶ correspondence sent to both parties in response to not receiving any submissions

Reasons for decision

To deal with the complaint:

- The complaint appears to have merit and is not obviously groundless.
- The complaint raises public interest issues.
- The complaint alleges a serious adverse impact on the complainant.
- Other:

The Commission agrees with the following statement made in the Section 40/41 Report:

It appears that the objections raised by the respondent under 41(1)(d) are similar to those already put before the Commission for decision on May 16, 2008, insofar as they: relate to the authenticity of the 'Anne Cools post'; question the complainant's motivations; and, note the adverse effect they have had on the respondent's reputation.

The Commission notes that there are no submissions from the parties in response to the Section 40/41 Report, and has no basis upon which it can determine that it should not maintain its decision of May 16, 2008, wherein it decided to deal with the complaint.

Not to deal with the complaint:

- The complaint does not appear to have merit.
- The complaint raise relatively trifling issues, with no serious adverse impact on the complainant.
- The dispute between the parties is purely private, and the complaint does not raise any public interest issues.
- The respondent has already addressed the complainant's concerns.
- The complaint cannot lead to any practical result; there are no remedies available under the Act for the alleged acts or omissions, and adjudicating the complaint would not advance the purposes of the Act.
- The complainant does not appear to be acting in good faith, or appears to be motivated by an ulterior motive.
- The human rights issues in the complaint have been addressed by another body.
- It would not be in the public interest to pursue the complaint.
- Other:

Signature

Linn Brette

Secretary to the Commission

September 9, 2009

Date



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Date of Complaint(s): December 21, 2006
Complainant(s): Marc Lemire
Respondent(s): Richard Warman

Decision under section 41(1)

The Commission decided:

- for the reason(s) identified below, to deal with the complaint under section 41(1) of the *Canadian Human Rights Act*.
- for the reason(s) identified below, not to deal with the complaint at this time under section 41(1)(b) of the *Canadian Human Rights Act*, as the complaint is one that could more appropriately be dealt with initially according to a procedure provided for under an Act of Parliament other than this Act. At the end of the other procedure the complainant may ask the Commission to reactivate the complaint.
- for the reason(s) identified below, not to deal with the complaint under section 41(1)(b) of the *Canadian Human Rights Act*, as the complaint is one that could more appropriately be dealt with completely according to a procedure provided for under an Act of Parliament other than this Act.
- that a decision under section 41(1)(b) of the *Canadian Human Rights Act* is unnecessary given the Commission's decision in complaint(s) [] pursuant to section 41(1)().

Material considered when decision made

The following documents were reviewed:

- ▶ complaint form dated December 22, 2006
- ▶ Section 40/41 Report dated July 15, 2009
- ▶ correspondence sent to both parties in response to not receiving any submissions

Reasons for decision

To deal with the complaint:

- The other procedure is not reasonably available to the complainant in that he/she does not have full access to the procedure.
- The delay in accessing the other procedure or in obtaining a final decision is not attributable to the complainant.

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- The parties will not be able to deal with all of the human rights issues that are in dispute through the other procedure.
 - The time-lines of the other redress procedure appear unreasonable.
 - Other:

The respondent is pursuing a civil suit under the *Libel and Slander Act of Ontario* which is a provincial statute, not an Act of Parliament, and therefore s.41(1)(b) of the *Canadian Human Rights Act* is not applicable to this case.

Not to deal with the complaint:

- Another statutory procedure is available to the complainant to deal with the human rights issues raised by the complaint.
- The delay in accessing the other procedure or in obtaining a final decision is attributable to the complainant.
- The other statutory procedure can deal with the human rights issues raised by the complaint and those issues be dealt with
 - initially, or
 - completely.
- The time-lines of the other redress procedure do not appear unreasonable.
- Other:

Signature

Lennie Brette

September 9, 2009

Secretary to the Commission

Date