HAYLEY COLE

Complainant

- and -

CANADIAN HUMAN RIGHTS COMMISSION

Commission

- and -

BELL CANADA

Respondent

REASONS FOR DECISION

MEMBER: Athanasios D. Hadjis 2007 CHRT 7
2007/04/04

[1] The Complainant, Hayley Cole, is an employee of Bell Canada (Bell), who went on maternity leave in 2000. Upon her return to work at the end of her leave, she asked Bell to provide her with a work schedule that would enable her to go home and breastfeed her child at the same time every day. She alleges that in turning down her request, Bell refused to accommodate her. This, in her view, constitutes discrimination based on her sex and family status, in violation of s. 7 of the *Canadian Human Rights Act*.

[2] The Canadian Human Rights Commission opted not to appear at the hearing. Ms. Cole led her case on her own, without any representation on her behalf. Bell was represented by legal counsel.

I. FACTS

[3] Ms. Cole began working at Bell in 1987, initially as a clerk in the billing department. By 2000, she was employed at Bell's Toronto call centre (also called the "Mass Queue"), which provided customer service to Bell clients. In February 2000, Ms. Cole took maternity leave from work to give birth to her second child. Shortly before taking her leave, Ms. Cole was informed that she had been accepted to work in a new call centre department known as the "High Value Queue" (HVQ). This department was being established at the time as a pilot project to provide priority service to Bell's larger customers. Ms. Cole had not begun working at HVQ when she left on her maternity leave.

[4] Ms. Cole's son was born on February 27, 2000. Unfortunately, he was born with a congenital heart defect, for which he had to undergo angioplasty when he was only four months old. Ms. Cole was told by her child's physicians that he would likely require surgery to repair the heart defect as he got older. Given his condition, they recommended that she breastfeed him for as long as possible in order to strengthen his immune system.

[5] Theresa Agnew, who is a nurse by profession, was qualified by the Tribunal to testify at the hearing as an expert in the area of breastfeeding and mastitis. Ms. Agnew happens to be the spouse of Ms. Cole's brother. Bell did not raise any objection in this regard and I did not find that her family connection impacted on her credibility as an expert witness. Ms. Agnew explained in her evidence that the colostrum in mother's milk has numerous immunological properties that can provide "immense" benefit to children, particularly those with health-related problems that make them more susceptible to infection. She testified that children with congenital heart disease are prone to bacterial infections, so much so that, for instance, antibiotics are often prescribed for them even when they are just having their teeth cleaned by a dentist. Through breastfeeding, these children become less susceptible to the contraction of these infections, and become better equipped to fight them if they are contracted.

[6] Ms. Cole followed the advice of her son's physicians and breastfed him exclusively until he reached about seven months of age, at which point she also began to feed him some solid food. By January 2001, her son had settled into a routine of being breastfed regularly about three to four times a day: at 6:30 a.m., 4:30 p.m., between 9:00 and 10:00 p.m., and occasionally overnight between 2:00 to 3:00 a.m.

[7] Around January 20, 2001, Ms. Cole called and left a voice mail message for Elizabeth Long, who was the wellness manager at the Mass Queue call centre where Ms. Cole had been working prior to taking her maternity leave. The wellness manager's duties included dealing with employees' issues regarding maternity and disability leave, as well as helping the call centre's manager (or "team leader") to monitor the attendance of employees and the reliability of their performance. Ms. Long was responsible, in this regard, for about 350 employees.

[8] In her voice mail message, Ms. Cole asked for authorization to take one hour "personal granted unpaid" (PGU) time off work per day in order to nurse her baby. Bell supervisors had the discretion to grant employees PGU time off from their normal work schedules to tend to personal matters, such as going to a doctor's appointment or attending a child's school play. Receiving PGU time off work does not have a negative impact on an employee's work record.

[9] Given Ms. Cole's seniority within Bell, she was usually assigned shifts beginning at 8:00 a.m. and ending at 4:00 p.m., Monday to Friday. According to Ms. Cole, on some

rare occasions, perhaps no more often than three times per year, she would be assigned an 8:15 a.m. to 4:15 p.m. shift. Her request to Ms. Long, therefore, consisted of asking to leave work one hour in advance of her normal end of shift, as PGU time. This would have enabled her to join her son at his caregiver's home, and nurse him by 4:30 p.m., in accordance with his feeding schedule. Ms. Cole also explained that usually, as the afternoon feeding time approached, her breast milk began to leak. By leaving earlier from work, she would minimize any leaking that would take place at her workplace. She described in her testimony the odour associated with leaking breast milk and the embarrassment she would feel if the leaking became visible through her clothes.

[10] Ms. Cole knew that another employee, Barb Kustec, had previously been granted PGU time off work to breastfeed her child at the workplace. Ms. Kustec's daughter had several allergies and it had been recommended that she continue breastfeeding her for as long as possible. In June 2000, Ms. Kustec sought and obtained authorization to take an extra fifteen minutes of PGU time off work after her 30 minute lunch break. Her husband would bring the child to the office at this time and she would nurse her. Ms. Cole testified that she had assumed that her request for time off at the end of the day would inconvenience Bell less than the accommodation granted to Ms. Kustec, which was occurring during the busy lunch hour when many employees were taking their breaks.

[11] On January 22, 2001, Ms. Long replied by e-mail to Ms. Cole's voice mail message. Ms. Long pointed out that upon Ms. Cole's return from maternity leave, she was to report directly to the HVQ call centre and that her file had been forwarded there. Any future enquiries were to be directed to her new team leader at HVQ, Maria Bozzelli.

[12] Although Ms. Cole's file was apparently now in the hands of HVQ, Ms. Long nevertheless took it upon herself to comment on Ms. Cole's request for PGU time off work. She wrote:

Your request for PGU unfortunately cannot be honoured. The other options would be changing your preferences for lunch etc etc to accommodate your needs that the staffing associate within the HVQ could help you with.

[13] Ms. Cole replied to Ms. Long by e-mail as well. She wrote:

I would like to know more information on why 60 minutes daily PGU is denied for me to nurse my baby. Is all PGU denied? Can I have 15 minutes a day? Or 30 minutes? Or 45 minutes?

[14] Ms. Long answered Ms. Cole's e-mail on February 2, 2001, with the following note:

I would recommend that you pursue your request with your new dept in HVQ, for us in the Mass queue we are in constant hiring mode and therefore can not substantiate granting PGU.

[15] Ms. Cole did not speak to Ms. Long about her request thereafter. She returned to work on February 26, 2001, commencing immediately in the HVQ department. A few days later, Ms. Cole approached Ms. Bozzelli to discuss the matter. She spoke to her about her son's heart condition and of his physicians' recommendation that he be breastfed for as long as possible. Ms. Bozzelli testified that both she and Ms. Cole became quite "emotional" during the course of this conversation.

[16] Ms. Cole had perceived Ms. Long's replies to her previous requests as a denial by Bell of PGU time off work. Consequently, she did not repeat this request to Ms. Bozzelli. Instead, Ms. Cole asked that her shifts always end by 4:00 p.m. She hoped that by

wearing breast pads, she might be able to capture her leaking breast milk while at work, and that if she left by 4:00 p.m., she would reach her son just in time for his next feeding.

[17] Ms. Bozzelli realized that Ms. Cole was effectively seeking a permanent 8:00 a.m. to 4:00 p.m. shift. She told Ms. Cole that given the possibility that the seniority rights of other employees may be affected, she needed to consult with her own second level manager, Kam Rawal, before granting the request. Ms. Bozzelli testified that she contacted Mr. Rawal about Ms. Cole's request. She claims that Mr. Rawal told her that since Ms. Cole was asking for a "medical restriction", medical documentation in support thereof would have to be provided to Bell. Mr. Rawal did not testify at the hearing.

[18] According to Ms. Bozzelli, she then contacted Ms. Cole to advise her that she must submit medical documentation confirming the accommodation that she required due to her son's health problems. Ms. Bozzelli assured Ms. Cole that until such time as the documents were submitted, she would only be assigned 8:00 a.m. to 4:00 p.m. shifts.

[19] Ms. Cole's recollection of this conversation differs somewhat. She testified that she was merely told that a "doctor's note" was needed in order for her request to be granted. She found it curious that a note was necessary given that, with the exception of perhaps three days per year, her shift would in any event ordinarily end at 4:00 p.m. Nonetheless, she agreed to provide a "note" from her doctor.

[20] On March 23, 2001, Ms. Cole met with her family physician and obtained from her a note, written on the physician's prescription notepad. The note said, "This is to certify that Hayley Cole has been advised to leave work at 4 p.m. daily for medical reasons". The note did not make any mention of Ms. Cole's child or his heart condition.

[21] Ms. Cole brought the note to Ms. Bozzelli who forwarded it on to Bell's "Disability Management Group" (DMG) offices in Montreal. The DMG manages all disability, occupational health and accommodation claims regarding Bell employees. The DMG is staffed with case managers who review the medical information received and make decisions, in consultation with a physician, regarding the employees' entitlements to short and long term disability benefits and accommodation.

[22] Ms. Bozzelli testified that she did not look at the note before forwarding it to the DMG. In order to respect Bell employees' privacy, the content of all medical documentation submitted by them is viewed solely and confidentially by the DMG. Accordingly, if the DMG determines, based on the medical evidence submitted by the employee, that medical restrictions are justified, the DMG will simply advise the employee's supervisor of the nature of the restrictions and how they should be accommodated. The details about the employee's disability or illness on which the DMG's decision is based are not disclosed to the supervisor.

[23] The DMG found that the note from Ms. Cole's physician was insufficiently detailed. Ms. Cole was therefore asked to provide a second note, which would set out a diagnosis and duration of the suggested restrictions to her work schedule. On May 11, 2001, Ms. Cole visited her family physician again, informed her of the DMG's request, and asked for a second medical note. The physician obliged and prepared another note, again handwritten on a sheet from her prescription pad. The second note said, "This is to certify that Hayley Cole has been advised to leave work at 4 p.m. daily for 12 months from today's date for prevention of recurrent mastitis". Ms. Cole testified that her physician included the reference to mastitis because "the doctor thought maybe that's what Bell was looking for". Ms. Cole's physician did not testify at the hearing.

[24] Ms. Agnew stated in her evidence that mastitis is an infection that occurs within breast tissue, which often is caused by clogged ducts. Some of the factors that may lead to this latter condition include engorgement of the breast (which can occur when the breast is not emptied of milk often enough), fatigue and stress, cracked nipples that allow bacteria to be introduced, and changes or decreases in the frequency of feedings. If the clogging is left unchecked, bacteria enter the ducts, which could develop into a local infection and in the worst cases, transfer into the bloodstream causing a systemic infection.

[25] Ms. Cole experienced mastitis around the third or fourth month after giving birth. Her family physician prescribed antibiotics and advised her to keep on nursing regularly. As Ms. Agnew explained in her evidence, one of the typical treatments for mastitis is frequent breastfeeding, particularly from the infected breast. After about two weeks, Ms. Cole's mastitis went away. She had not had another instance of mastitis by the time she returned to work in February 2001. Ms. Agnew testified that a "small percentage" of mothers experience chronic or recurring mastitis. Mastitis is most likely to initially arise within the first 24 months after birth. However, if a woman experiences recurring mastitis in this period, the infection could recur even after the 24th month, although the likelihood is "very rare".

[26] The DMG reviewed the physician's second note and determined that the recommended fixed work schedule constituted a "preventive measure" that the DMG felt should be accommodated if possible. Upon receiving a message to this effect from the DMG, Ms. Bozzelli implemented the recommendation and ensured that Ms. Cole was assigned exclusively 8 a.m. to 4 p.m. shifts for a 12 month period ending on May 24, 2002. Ms. Bozzelli testified that other HVQ employees noticed that Ms. Cole was always getting the same shift hours and inquired about this. Ms. Bozzelli explained to them that this decision related to a personal matter of Ms. Cole's, the details of which could not be shared.

[27] In March 2002, as the end of the 12 month period was approaching, DMG case worker, Stephanie Houle, contacted Ms. Cole to inform her that the existing medical note on file would not be valid for much longer. If Ms. Cole needed to continue to be accommodated with fixed shift hours beyond May 24, 2002, her physician would need to file a new report, by filling out a two-page DMG form called a "Physician's Report to Disability Management Group", also known by its identification number, "BC1935".

[28] Interestingly, the instructions on the form direct the employee to complete the form in the event that he or she is "absent from work for more than seven calendar days for illness/off-duty injury, or for one full day for an on-duty injury/occupational disease". There is no evidence that Ms. Cole was ever absent from work due to illness or injury in the manner described in the form, after her return to work following her maternity leave. The DMG asked her to submit the form nonetheless.

[29] Ms. Cole's physician completed the form on May 22, 2002. She described the nature and frequency of Ms. Cole's current treatment as "working consistent hours". In answer to the question of whether a progressive return-to-work plan was suggested, the physician wrote, "Able to work full-time, full duties but maintain consistent hours Monday to Friday 8-4". Bell had recently initiated Saturday shifts at the HVQ call centre, which all ran from 9:00 a.m. to 5:30 p.m. If Ms. Cole's shift were to end so late in the day, she would never be able to reach her child for his 4:30 feeding. Ms. Cole claims that she

mentioned this situation to her physician, who therefore opted to include the "Monday to Friday" reference in the report. Ms. Cole forwarded the completed BC1935 form to the DMG.

[30] Dr. Liliane Demers is a consulting physician with the DMG. She testified that the DMG was not ready to support further accommodation in Ms. Cole's case, after reviewing her BC1935 form. She noted that the physician's diagnosis of recurrent mastitis did not specify the number of episodes that had occurred nor was any treatment for any such episodes described. No proposed follow-up appointments with the patient were mentioned either. Dr. Demers pointed out that mastitis most frequently occurs in the first six months after birth. At this point, Ms. Cole's son was already over two years old.

[31] The DMG's decision that further accommodation would not be supported was apparently conveyed to HVQ management but, according to Ms. Cole, none of the details brought up in Dr. Demers' testimony were ever communicated to her. Instead, she claims that she was merely told by Liz Brownrigg, the wellness manager responsible for attendance at HVQ, that her physician's report had been "rejected". The conversation with Ms. Brownrigg seemed to have centred on the issue of the Saturday shift, since in an e-mail message dated May 31, 2002, Ms. Cole wrote to Ms. Houle:

Liz referred me to you to find out what information you require from my doctor to support Saturday exemption. Do I need to have my doctor complete another 1935?

[32] Ms. Houle replied by e-mail on June 3, 2002:

We do need to understand the medical condition that prevents you to work on Saturdays (your treating physician can add this information on the bc1935 [form and sign] beside it).

[33] Accordingly, Ms. Cole returned to her physician and asked her to add the additional requested information on the same form. The physician added several additional lines in the margin of the form's sheet so that it now read as follows:

Able to work full-time, full duties but maintain consistent hours Monday to Friday 8-4 to continue regularly scheduled breastfeeding to prevent recurrence of mastitis - Saturday work schedule is different won't apply [*sic*].

[34] Ms. Cole forwarded the revised BC1935 form to the DMG.

[35] On August 7, 2002, Ms. Houle sent an e-mail message to Ms. Brownrigg stating that although it was recommended that Ms. Cole work consistent hours, the DMG did not support on a medical basis the physician's recommendation that she work "specific hours and/or days of work". Ms. Houle added that it was up to Ms. Cole's managers to decide if they would accommodate this request for those specific hours or days of work. Ms. Brownrigg, in turn, informed Ms. Cole verbally that the DMG no longer supported her claim for accommodation on medical grounds.

[36] Ms. Cole decided to speak to the "force wellness communication manager" at HVQ, Melanie Blackall, about her situation. Ms. Blackall's duties included managing staffing requirements within the department. Ms. Blackall testified that Ms. Cole seemed confounded by the DMG's response, and wondered aloud how her physician could write the medical report any differently. Ms. Blackall replied that she had nothing to suggest; she just knew the DMG found the second report insufficient. From May to September, 2002, Ms. Cole had already been assigned to work three Saturday shifts ending at 5:30 p.m., which she had managed to avoid by using her sick leave days or exchanging shifts

with other employees. These adjustments did not have any impact on her salary. On weekdays, Bell continued to assign Ms. Cole 8:00 a.m. to 4:00 p.m. shifts exclusively.

[37] On September 27, 2002, Ms. Cole told Ms. Blackall that she had scheduled an appointment to meet her physician again on October 7, 2002, in order to obtain another BC1935 report to submit to the DMG. Ms. Blackall advised Ms. Cole, as confirmed in a subsequent e-mail, that unless the DMG would be varying its position after the new report was filed, Ms. Cole should be prepared to be on "regular scheduling" as of October 14th, 2002, without any of the restrictions on shift assignments that had been in place previously. Ms. Cole interpreted Ms. Blackall's remarks as meaning that she should prepare herself to stop nursing since she would no longer be exclusively assigned fixed shifts ending at 4:00 p.m. Ms. Blackall acknowledged in her evidence that by her body language and tone of voice, Ms. Cole demonstrated that she was clearly upset with this news.

[38] As scheduled, Ms. Cole visited her physician and obtained another BC1935 report containing more information than in the previous reports. Under the heading "Nature and frequency of current treatment", the physician wrote "working consistent hours with consecutive days off". Under the heading "Extent of disability", the physician wrote that Ms. Cole "can perform all tasks but needs to work consistent hours i.e. 8 - 4 daily with 2 consecutive days off in order to maintain a regular schedule of breastfeeding and 2 days off to pump breast milk for storage for the remainder of the week in order to avoid mastitis". The physician indicated that these restrictions would apply for approximately one year.

[39] The report was forwarded to the DMG. Late in October, Ms. Blackall learned that the DMG had again decided the medical information did not support the restrictions Ms. Cole's physician had recommended. Ms. Blackall sought instructions from a higher level manager, Karen Neave. Ms. Neave advised her that she would be taking care of the matter from that moment on and instructed her to ensure that Ms. Cole was maintained on 8:00 a.m. to 4:00 p.m. shifts in the meantime.

[40] Given Ms. Blackall's previous notice by e-mail that Ms. Cole should be prepared to work regular shifts (i.e. possibly beyond 4:00 p.m.) if the DMG did not alter its position, Ms. Cole testified that she resigned herself to the expectation of later shifts. She therefore stopped her son's 4:30 p.m. feedings on October 8 or 9, 2002. By Christmas 2002, Ms. Cole had stopped the 10:00 p.m. feedings, and by March or April, 2003, she had stopped nursing him altogether.

[41] On November 4, 2002, Ms. Blackall instructed her staffing manager by e-mail that "effective immediately, until further notice, Hayley will be working 8-4 tours due to her medical restrictions". Ms. Cole says she was never given a copy of this e-mail nor was she ever provided with this information. She continued to work in the HVQ call centre until January 2003, when it was dismantled. Between October 2002 and January 2003, Ms. Cole was only assigned to work three shifts beyond 4:00 p.m., twice in late October and once early in November. After she notified Ms. Blackall about these assignments, Ms. Blackall adjusted them back to 4:00 p.m. Thus, taken as a whole, between May 2002, when Ms. Cole's initial period of guaranteed work shifts was to expire, and January 28, 2003, when she left HVQ, Ms. Cole did not in fact ever work any shift where she was scheduled to finish past 4:00 p.m.

[42] After the HVQ call centre was dismantled, Ms. Cole was assigned to the "Move Queue", which apparently is a large call centre, like the Mass Queue. Ms. Cole testified that given the higher number of employees at the Move Queue and her level of seniority by this point, she was certain to receive Monday to Friday, 8:00 a.m. to 4:00 p.m. shifts.

[43] The wellness manager who oversaw the Move Queue call centre was Ms. Long, the same wellness manager to whom Ms. Cole had addressed her original request for PGU time off work. Ms. Long testified that in February 2003, she had begun to focus on improving attendance at the call centres for which she was responsible. One of the measures she adopted to address the significant attendance problem that had developed was to work closely with the DMG to ensure that all the supporting documentation for persons on medical leave was in order and that employees would return to work as soon as medically possible. In conducting her review of employees for whom restrictions had been put in place, she discovered that Bell was formally continuing to maintain restrictions with respect to Ms. Cole's work shifts. The DMG informed Ms. Long that there was no longer any documentation on file to support these continued restrictions.

[44] Consequently, on March 5, 2003, Ms. Long wrote an e-mail message to Ms. Cole advising her that in light of the information obtained from the DMG, her medical restrictions with respect to shift scheduling were being removed. Ms. Long added that if Ms. Cole felt that the restrictions were still applicable, she should file a new BC1935 form. Ms. Long testified that she never got a reply from Ms. Cole to this e-mail.

[45] On April 14, 2004, Ms. Cole filed her human rights complaint with the Commission.

II. ANALYSIS

A. What must Ms. Cole demonstrate to establish discrimination in this case?

[46] Ms. Cole alleges that in the course of her employment, Bell engaged in a discriminatory practice, within the meaning of s. 7 (*b*) of the *Act*, by directly or indirectly differentiating adversely in relation to her, on a prohibited ground of discrimination. Sex and family status are included amongst the prohibited grounds of discrimination enumerated in s. 3 of the *Act*.

[47] Complainants in human rights cases must first establish a *prima facie* case of discrimination. A *prima facie* case is one that covers the allegations made and which, if the allegations are believed, is complete and sufficient to justify a verdict in the complainant's favour in the absence of an answer from the respondent (*Ontario Human Rights Commission v. Simpsons-Sears Ltd.*, [1985] 2 S.C.R. 536 at para. 28).

[48] Once the *prima facie* case is established, it is incumbent upon the respondent to "reasonably" or "satisfactorily" explain the otherwise discriminatory practice (see *Lincoln v. Bay Ferries Ltd.*, 2004 FCA 204 at para. 23; *Canada (Canadian Human Rights Commission) v. Canada (Attorney General)*, 2005 FCA 154 at para. 26-7).

[49] Moreover, an employer's conduct will not be considered discriminatory if it can establish that its refusal, exclusion, expulsion, suspension, limitation, specification or preference in relation to any employment is based on a *bona fide* occupational requirement (BFOR) (s. 15(1)(*a*) of the *Act*). For any practice to be considered a BFOR, it must be established that accommodation of the needs of the individual or class of individuals affected would impose undue hardship on the person who would have to accommodate those needs, considering health, safety and cost (s. 15(2) of the *Act*).

B. Does differential treatment with respect to breastfeeding constitute discrimination on the basis of sex and family status?

[50] Ms. Cole alleges that Bell's treatment of her request for time off work to nurse her son was discriminatory on the basis of her sex and family status. The British Columbia Human Rights Tribunal, in *Poirier v. British Columbia (Ministry of Municipal Affairs, Recreation and Housing)* (1997), 29 C.H.R.R. D/87 (B.C.H.T.), addressed the question of whether differential treatment of a woman based on the fact that she is breastfeeding is a form of sex discrimination. The Tribunal referred to the Supreme Court's decision in *Brooks v. Canada Safeway Ltd.* [1989] 1 S.C.R. 1219, in which Chief Justice Dickson stated that the capacity to become pregnant is unique to the female gender. A distinction based on pregnancy is therefore a distinction based on sex. The B.C. Tribunal in *Poirier* held that the same reasoning applies to breastfeeding as well. The capacity to breastfeed is unique to the female gender. Consequently, discrimination on the basis that an individual is breastfeeding is a form of sex discrimination. I agree with this interpretation.

[51] It would seem that a parallel could be drawn regarding the ground of family status. Since Ms. Cole was the mother of the child whom she wanted to breastfeed, treating her differentially in this regard would constitute discrimination on the basis of her family status as a parent. However, Ms. Cole did not advance any argument at the hearing with respect to the "family status" portion of her complaint, nor did she direct the Tribunal to any evidence in support thereof. Her submissions focussed on the proposition that the alleged discriminatory conduct was based on her sex. I therefore can only assume that Ms. Cole opted to no longer pursue the "family status" aspect of her complaint. In the circumstances, it would in my view be a breach of fairness and natural justice for me to attempt to formulate arguments at this point in support of this aspect of the complaint, and make findings thereon (see *Maillet v. Canada (Attorney General)*, 2005 CHRT 48 at para. 8). The case based on "family status" is therefore dismissed.

C. Is there *prima facie* evidence establishing that Ms. Cole was differentially treated in the course of employment, on the basis of her sex?

[52] Shortly before returning to work, Ms. Cole contacted Bell management (i.e. Ms. Long) to make a special request as a breastfeeding mother. She wanted to nurse her son at his afternoon feeding time. Could Bell authorize her to leave work one hour earlier each day, thereby giving her plenty of time to return to her son and feed him? Bell would not be obliged to pay her salary while she was off work (PGU).

[53] Ms. Long's initial response was unambiguous: "Your request for PGU unfortunately cannot be honoured." When Ms. Cole asked whether this refusal was final or whether a shorter PGU time period would be acceptable, Ms. Long replied that in her Mass Queue department, they were in "constant hiring mode" and "cannot substantiate granting PGU".

[54] Bell contends that Ms. Cole should have ignored these remarks from Ms. Long since she was going to be working at the HVQ call centre upon her return, a department for which Ms. Long was not responsible. Indeed, Ms. Long prefaced her comments in the second e-mail with a recommendation that Ms. Cole pursue her request with the HVQ department.

[55] Nevertheless, Ms. Cole perceived Ms. Long's replies as a denial of her request for PGU time. Was Ms. Cole's perception reasonable? She testified that prior to her return to work, she understood that her employment was still linked to the Mass Queue. After all, when she left on maternity leave, she was still working at the Mass Queue. Consequently, she assumed that until she began working at HVQ, Ms. Long remained her wellness manager.

[56] Furthermore, even though Ms. Long indicated that Ms. Cole's file was now in the hands of the HVQ, Ms. Long took it upon herself just the same to address Ms. Cole's PGU request in both of her e-mails. Ms. Cole found herself being told twice by this Bell manager that PGU cannot be "honoured" or "substantiated". In effect, Bell was strongly discouraging her in her attempts to obtain leave to breastfeed her child in the manner requested by her. In the circumstances, it was in my view reasonable for Ms. Cole to conclude that Bell would not be granting her any PGU time to breastfeed her child.

[57] Ms. Cole, therefore, decided not to pursue the PGU option with Ms. Bozzelli. She pared down her request to what she viewed as a bare minimum, an assurance that her work shift would end at 4:00 p.m., thereby enabling her to make the commute to her child's caregiver's home just in time to feed him. Bell's reaction to this request is key to the outcome of this case. Rather than treat this as a request by an employee, who is both a woman and a mother, for a modification to her work schedule that would enable her to nurse her child with regularity, Bell opted to convert the matter into a medical issue. Ms. Bozzelli was instructed to ask Ms. Cole to provide medical information in support of her request. Why was this necessary? Dr. Demers acknowledged in her testimony, as did Bell's counsel in final argument, that the act of breastfeeding is not a disability. I will return to this question later in this decision.

[58] Bell pointed out at the hearing that Ms. Cole was in fact ultimately accommodated in the first year with a guaranteed 8:00 a.m. to 4:00 p.m. work schedule. This accommodation was not, however, in response to a mother's request to breastfeed her child, but as the request of an ill or disabled employee in need of accommodation to avoid recurrence of an illness. This approach to her request resulted, one year later, in Ms. Cole's being told that her accommodation would formally end due to the unlikelihood of any future recurrence of mastitis, even though she was still nursing her son and required a guaranteed 4:00 p.m. shift end to ensure that she could feed him by 4:30 p.m.

[59] Thus, Bell never really addressed Ms. Cole's request, as a mother, for a fixed shift end that would enable her to breastfeed her son at his afternoon feeding time. Does this fact establish *prima facie* that Ms. Cole was discriminated against on the basis of her sex? In my view, it does.

[60] Section 7(*b*) of the *Act* states that it is a discriminatory practice to directly or indirectly differentiate adversely in relation to an employee in the course of employment. The purpose of the *Act*, as articulated in s. 2, is to extend the scope of application of the principle that all individuals should have "an opportunity equal with other individuals to make for themselves the lives that they are able and wish to have", and to have their needs accommodated, without being hindered in or prevented from doing so by discrimination based on, amongst other factors, their sex.

[61] In their working lives, women face particular challenges and obstacles that men do not. A woman who opts to breastfeed her baby takes on a child-rearing responsibility which no man will truly ever face. In order for a working mother to bestow on her child the benefits that nursing can provide, she may require a degree of accommodation. Otherwise, she may end up facing a difficult choice that a man will never have to address. On the one hand, stop nursing your child in order to continue working and make a living for yourself and your family. On the other hand, abandon your job to ensure that your child will be breastfed. This dilemma is unique to women employees and results in their

being differentiated adversely, in the course of their employment. It has the potential to create precisely the type of obstacle that would deny women an "opportunity equal to others, to make for themselves the lives they are able and wish to have" (s. 2 of the *Act*).

[62] In the present case, Bell's reaction, in at the very least strongly discouraging Ms. Cole's request, as a mother, for PGU time to breastfeed her child, presented Ms. Cole with just such a dilemma, one that a male colleague would not have had to face. As such, Ms. Cole was subjected to adverse differential treatment.

[63] Furthermore, her subsequent request to Bell for a relatively slight adjustment to her work schedule, which would have enabled her to nurse her son, was in effect turned down as well. Bell never addressed this request as that of a nursing mother. Instead, by referring the matter to the DMG, Ms. Cole was treated as an ill or disabled employee. She was required to visit her physician repeatedly to obtain medical notes and reports. Thus, not only did Bell strongly discourage her initial request for PGU but when she significantly attenuated her request to merely a guarantee of a 4:00 p.m. shift end, Bell subjected her to conditions and specifications (i.e. the filing of medical reports to justify nursing) that a male Bell employee would obviously never have been subjected to. Her status as a nursing mother was integral to her requests, and the denial of these requests had a unique impact on her as a woman, and more specifically, as a nursing mother. As such, there is a clear nexus between the adverse treatment that she received and her status as a woman.

[64] A *prima facie* case of differential treatment based on Ms. Cole's sex has therefore been established.

D. What is Bell's answer to the *prima facie* case?

[65] Since Ms. Cole has established a *prima facie* case of discrimination, it is now incumbent upon Bell to provide an answer to the case.

[66] According to s. 15(1) *a*) of the *Act*, it would not be a discriminatory practice if Bell's refusal to grant PGU time or its specification that Ms. Cole obtain a medical report justifying her early departure request was based on a *bona fide* occupational requirement. In order to establish this defence, Bell must demonstrate that accommodation of the individual or class of individuals affected would impose undue hardship on Bell, considering health, safety and cost (s. 15(2)). Indeed, as the Supreme Court decision in (*British Columbia (Superintendent of Motor Vehicles) v. British Columbia (Council of Human Rights)*, [1999] 3 S.C.R. 868 at para. 21 ("*Grismer*")) would indicate, to avail itself of this defence, an employer must demonstrate that it has made "every possible accommodation" short of undue hardship.

[67] Bell contends, however, that before the duty to accommodate is engaged, an employee must request an accommodation measure and objectively demonstrate the need for this measure. Furthermore, Bell argues that the employee must also provide relevant information in support of her request, which must be clear, detailed and sufficient to support it.

[68] In the present case, Bell points out that when Ms. Cole first approached Ms. Bozzelli, she explained that she required the adjustment to her work schedule to nurse her son and thereby build up his immunity to infections, to which he was particularly susceptible due to his heart condition. If this was the "need" that required accommodation, Bell contends that Ms. Cole failed to provide sufficient information to document the need. When Bell asked her to file a physician's note in support of her

request, the medical documents produced made no mention of her son's condition. No one at the DMG ever learned of his illness. Had they been aware of it, it is possible that the DMG would have reached a different conclusion in 2002, and perhaps would have continued to support her accommodation request, without requesting additional medical documentation.

[69] Bell's argument, however, does not take into account a fundamental point. Why should the son's health be a consideration when dealing with Ms. Cole's request? Should it make any difference what motivation this parent may have had when making her request for some time off work to breastfeed her child? Ms. Cole's principal objective was to build up her son's immunities given his proneness to infection and the likelihood of future surgery. The incentive for Ms. Kustec was to help her daughter deal with her allergies. As Ms. Agnew indicated in her expert evidence, the benefits to be gained through breastfeeding are numerous and accrue not only to the child and the mother, but to society as a whole. As was also pointed out in *Québec* (*Comm. des droits de la personne et des droits de la jeunesse) et Giguère v. Montréal (Ville)* (2003), 47 C.H.R.R. D/67, 2003 QCTDP 88 at paras. 53-7, these benefits have been recognized internationally in the *Convention on the Rights of the Child*, which was ratified by Canada in 1991. The promotion for breastfeeding has been one of the major goals of the World Health Organization for almost three decades.

[70] Thus, although Ms. Cole advised Bell management of her own prime motivation for continuing to breastfeed her baby after returning to work, Bell's reaction should only have been to consider this request as that of any mother making a request to her employer for measures that would enable her to continue breastfeeding her child. Bell's requirement that Ms. Cole provide *medical* proof to support the request was not justified. Bell may have had some basis to impose this condition if it had any reason to question whether Ms. Cole had indeed given birth 12 months earlier or doubted her sincerity when she explained that she was still breastfeeding her child. But there is no evidence before me of any such question or doubt ever having been raised in this case.

[71] The decision by Bell to request medical proof was unfortunate, as it ultimately created the potential for Ms. Cole to lose the benefit of guaranteed work shifts by May 2002. I am persuaded from Ms. Cole's evidence that she was surprised by Bell's initial request for a physician's note and that she did not know quite what to make of it. But she decided to go along with the request. Her primary concern was her child's well-being. If Bell management insisted on a doctor's note, she would make sure that they would get a doctor's note.

[72] I would note incidentally that given my finding that the request for a medical note was unjustified, little really turns on whether or not Ms. Bozzelli actually specified to Ms. Cole that the medical note should make specific mention of the son's illness. In any event, I find Ms. Cole's evidence more credible in this regard. Ms. Bozzelli remained in the hearing room while Ms. Cole and all her other witnesses testified. Ms. Bozzelli therefore had the benefit of listening to Ms. Cole's version of the facts before giving her own testimony. Moreover, given Ms. Cole's desire and willingness to make all efforts to ensure that she would be able to breastfeed her son, as is apparent to me from the entirety of her evidence, it seems highly improbable that she would have failed to follow up on the request for this type of medical information if Ms. Bozzelli had really been as explicit as she claims.

[73] On the contrary, it is quite obvious from the minimal information provided in the doctor's first note that neither Ms. Cole nor her physician comprehended what Bell was exactly seeking. Ms. Cole had already explained her situation to her manager. Yet Bell was asking for more information as to why *Ms. Cole's* health required accommodation. Indeed, the BC1935 form that she was asked to complete in 2002 addressed employee illness or disability only. It was not intended to deal with illness of an employee's family member. And why should it have? The DMG's role was to assess the *medical* restrictions of *Bell employees*. Ms. Cole had no such medical restrictions, but Bell's request compelled her to, in effect, find a medical restriction (mastitis), in order to obtain the accommodation she was seeking for her son's needs. However, since mastitis was unlikely to occur beyond 24 months following the birth (a point upon which both Ms. Agnew and Dr. Demers concur), Ms. Cole's claim for accommodation was certain to be refused once the child reached two years of age, in 2002.

[74] In this sense, the DMG was justified in refusing its continued support of Ms. Cole's accommodation. But the DMG's opinion should have been immaterial. The matter should not have been before the DMG in the first place since Ms. Cole was not ill or disabled, she was a nursing mother without any health issues of her own.

[75] Bell agrees that the act of breastfeeding is not a disability but contends that an employer has a right to request supporting, objective evidence from an employee who requests accommodation to nurse her child. The employee must demonstrate a *need*, not just a mere preference. To place things in the context of this case, a mother may prefer to feed a child at a certain time of the day, but does she *need* to do so? Bell claims that the burden rests on the employee to make this demonstration, arguing that an employer has no obligation to take an employee's request at "face value". Bell's counsel suggested an analogy could be drawn from the situation where an employee seeks religious accommodation (a religious holiday off work, for example). An employer would be justified in requesting confirmation from the employee's cleric of the genuineness of the religious practice. Similarly, it was argued, an employer would be justified in asking a woman to provide medical proof that the breast feeding accommodation she seeks is necessary. Bell did not provide any legal authority in support of this argument.

[76] Moreover, I disagree with the premise of this analogy. In *Syndicat Northcrest v. Amselem*, [2004] 2 S.C.R. 551 at para. 43, a case dealing with freedom of religion, the Supreme Court held that the emphasis in such matters is on the "personal choice of religious beliefs". An expert or authority on religious law is not the surrogate for an individual's affirmation of what his or her religious beliefs are. Requiring proof of the established practices of a religion to gauge the sincerity of belief diminishes the very freedom that is sought to be protected. A claimant may choose to adduce expert evidence to demonstrate that his or her belief is consistent with the practices or beliefs of other adherents of the faith, but while such evidence may be relevant to a demonstration of sincerity, it is not necessary (*Syndicat Northcrest*, at para. 54).

[77] Following Bell's analogy, if it is not necessary for a claimant of religious freedom to provide so-called "objective" evidence of religious practices to establish the sincerity of his or her religious beliefs, why should a mother have to produce "objective" evidence to prove her sincerity when she declares that she is nursing her infant and needs accommodation to continue to do so after returning to work. In my view, in the absence of any evidence that would lead the employer to doubt the sincerity of the female

employee's assertion (i.e. that she has an infant whom she is nursing), she should not have to prove to her employer that nursing her child is necessary. As was pointed out in the labour arbitration case of *Re: Carewest and H.S.A.A.* (2001), 93 L.A.C. (4th) 129 at 160, breastfeeding, which is obviously unique to the female gender, is as intimately connected to child birth as pregnancy and should be safeguarded in the same way (see also *Giguère*, *supra* at para. 60).

[78] I therefore disagree with Bell's contention that an employer is justified in asking its employee to provide some independent proof of her need to breastfeed her child. Consequently, Bell's request, in the present case, that Ms. Cole produce medical evidence to support her request for accommodation was not justified. Bell can therefore not put forth her failure to provide medical documentation regarding her child's condition to the DMG as a reasonable or satisfactory explanation.

E. Did Bell establish that it made every possible accommodation short of undue hardship?

[79] In the present case, not only has Bell failed to establish that it made every possible accommodation short of undue hardship, but there is no evidence indicating that Bell ever tried to accommodate Ms. Cole's request *as a mother* to breastfeed her child. Her initial request for PGU time off work was strongly discouraged. Her subsequent petition to receive a guaranteed 4:00 p.m. end of shift was not properly addressed. While it is true that in fact she was assigned fixed shifts for the following year, it was not to accommodate Ms. Cole's needs as a mother, but rather as a disabled or ill person. As I have already explained, this mischaracterization later resulted in the potential loss of her guaranteed shifts and forced her to repeatedly return to her physician to obtain one new medical report after another.

[80] Bell's failure to accommodate Ms. Cole's request is not surprising given the fact that, as Dr. Demers testified, Bell has no policy on accommodating employees with respect to breastfeeding. Decisions are made on a case by case basis by individual managers. We know, for instance, that Ms. Kustec's request was accommodated. Ms. Long told Ms. Cole that she would not grant PGU time for breastfeeding, certainly with respect to employees in her department, although she raised the possibility of exploring other options ("lunch etc. etc.").

[81] Not only is there an absence of any attempt to accommodate Ms. Cole as a mother, but the evidence put before the Tribunal suggests that accommodating Ms. Cole with a guaranteed shift end at 4:00 p.m. would not have imposed any hardship on Bell whatsoever, let alone undue hardship. Given her seniority, she was entitled to those shifts on all but a handful of days each year. Ms. Bozzelli alluded in her evidence to some comments that some other employees apparently made when they noticed that Ms. Cole's shifts were always ending at 4:00 p.m. No further details were given about these comments, nor was any evidence brought forth about any ramifications arising from these observations by the other employees. There was therefore no evidence adduced on the implications of any possible impact on the seniority rights of other employees.

[82] Furthermore, Bell did not even demonstrate that Ms. Cole's request for an earlier shift end (up to an hour earlier) was unreasonable. The employer would not have been required to pay her a salary while she was absent as it would have been designated as PGU time off work. Moreover, the absence would have been at the end of the day. Ms. Cole testified that in her experience, there would usually be no more than one person on a work break at 3:45 p.m. More people were away from their stations at the lunch hour

when Ms. Kustec was given her PGU time off to breastfeed her child. Bell's only evidence in this regard was a comment made by Ms. Long that it would be "hard" for her to say what the demands would have been when Ms. Cole made her requests. Ms. Long added that "right now" (i.e. in November 2006, when she testified), Bell has a "real need for people from 4:00 to 5:00" and that "lunch was never an issue".

[83] In my view, Bell has not established on the balance of probabilities that in 2002, Ms. Cole's daily departure up to one hour before her ordinary shift end would have caused undue hardship to Bell.

[84] I therefore find that Bell has not established the defence set out in s. 15(1) (*a*) and s. 15 (2) of the *Act*.

[85] Since no other reasonable or satisfactory explanation or exemption has been established to rebut the *prima facie* case of discrimination, I find that Ms. Cole was discriminated against by Bell on the basis of her sex, within the meaning of s. 7 of the *Act*, and that her complaint has therefore been substantiated.

F. What Remedies does Ms. Cole seek?

(i) An order pursuant to s. 53(2)(*a*) of the *Act*

[86] Ms. Cole is seeking an order, pursuant to s. 53(2)(*a*) of the *Act*, that Bell take measures to prevent the discriminatory practice that occurred in the present case from recurring in the future. She points out that Bell does not inform its female employees who are returning to work after their maternity leave of the possibility of requesting accommodation from the employer in order to breastfeed their children. Ms. Cole argues that had she been aware of her rights in this respect, she would have been more forceful in her request for accommodation by, for instance, not rescinding her initial request for PGU time off work.

[87] As I have already noted, Bell acknowledges that it does not have any formal policy with regard to the accommodation of its employees who wish to breastfeed. The matter is dealt with on a case by case basis. Bell did not lead any evidence indicating that it provides any information to its employees relating to this form of accommodation at the present time.

[88] In my view, Ms. Cole's request for this order is reasonable. Both Bell's management and its staff at large will stand to benefit from a greater understanding of their respective rights and obligations under the *Act* in relation to this particular issue. This could, in turn, prevent discriminatory practices similar to the present one from occurring in the future.

[89] I therefore order Bell to take measures, pursuant to s. 53(2)(*a*) of the *Act*, in consultation with the Commission on the general purposes of the measures, to prevent the discriminatory practice cited in this case or a similar practice from occurring in the future. These measures shall include the establishment of a policy relating to requests by Bell employees for accommodation with regard to breastfeeding that is consistent with the findings in this decision. Bell employees, and particularly parents who are the most likely to be directly affected by the policy, should be made aware of the substance of the policy in an effective manner.

(ii) Compensation for pain and suffering (s. 53(2)(*e*))

[90] Ms. Cole is asking that Bell be ordered to compensate her for the pain and suffering that she experienced as a result of the discriminatory practice. She is seeking the maximum amount available under s. 53(2)(*e*), $20,000.

[91] Part of her claimed pain and suffering relates to her not obtaining up to an hour of PGU time at the end of her shift. By being compelled to leave her work no earlier than 4:00 p.m., she was only able to reach her son just before his next feeding, and about 12 hours after his last feeding. As a result, her milk tended to build up and eventually began to leak. She wore breast pads to try to prevent the leaks from appearing on her clothes. There was an odour associated with the leakage. She described the circumstances as humiliating for her. Ms. Cole acknowledged that leakage could occur at any time during the course of the day, but she claimed that the leakages were more frequent as the time for her son's next feeding neared.

[92] Ms. Cole also testified that there were occasions towards the end of her shift when she was caught in a conversation with a customer that she could not immediately terminate. As a result, her return to her son would sometimes be delayed by up to 15 minutes. This delay would render her breasts even more engorged, which caused her some physical pain.

[93] Ms. Cole also described how inconvenienced she felt at having to repeatedly return to her physician to obtain medical letters and reports to justify the accommodation she was seeking even though she was neither sick nor disabled. She also spoke of the angst and uncertainty she experienced when she learned, in May 2002, that the accommodation that had been provided to her until then would soon be ending, unless she could provide the medical evidence that would satisfy Bell and the DMG.

[94] In addition, Ms. Cole explained the emotional pain and loss she felt at having to cease nursing her son in October 2002, following Ms. Blackall's remarks of September 27, 2002. I am not, however, persuaded that these remarks were the cause for Ms. Cole's decision to stop breastfeeding her child in October 2002. While it is true that Ms. Blackall's remarks are a reflection of Bell's ongoing failure to properly address Ms. Cole's requests, it should also be noted that Ms. Blackall never actually told Ms. Cole that her fixed shift ends would cease. Indeed, Ms. Cole was never assigned a shift ending beyond 4:00 p.m. after November 2002, and formally, Bell did not terminate the medical accommodation until February 2003. Ms. Cole must in fact have been aware or at least had a sense that Bell had not officially changed its position in this regard. This is apparent from the fact that on the three occasions in October and November 2002, when she was assigned some shifts that ended after 4:00 p.m., she immediately contacted Ms. Blackall, who promptly corrected the problem and made sure that her shifts would end by 4:00 p.m.

[95] Ms. Cole acknowledged that it was always up to her to decide when to stop breastfeeding. Her child's paediatrician had merely advised her to continue for as long as she and her son were comfortable with it.

[96] I am therefore not persuaded that Ms. Cole's decision to ultimately stop breastfeeding was so much associated with Ms. Blackall's notice as it was with her personal choice to bring the nursing to an end. Any pain and suffering that Ms. Cole may have as stemming from her decision to stop nursing her child in October 2002 is, in my view, too remote to be attributed to Bell's discriminatory conduct.

[97] Finally, I cannot ignore the significant fact that from May 2001 until February 2003, when Ms. Cole left HVQ, she was never required to actually work any shift that was scheduled to extend beyond 4:00 p.m. There were a few occasions when, in order to achieve this result, Ms. Cole had to use her sick leave days or switch shifts with other

employees, but the fact remains that she never worked a shift that was scheduled to end beyond 4:00 p.m.

[98] Given all of these circumstances, I order Bell to pay Ms. Cole the sum of $5,000 as compensation pursuant to s. 53(2)(*e*) of the *Act*.

(iii) Special compensation pursuant to s. 53(3) of the *Act*.

[99] Ms. Cole seeks an award of special compensation pursuant to s. 53(3) of the *Act*. She alleges that Bell recklessly engaged in the discriminatory practice against her. By offhandedly refusing her request for as little as 15 minutes PGU time, without any further assessment of her situation, and in the second phase, mischaracterizing her situation as that of a disabled or ill employee and compelling her to return repeatedly to her physician, Bell acted recklessly.

[100] According to *Black's Law Dictionary*, recklessness is present in conduct that evinces disregard of or indifference to consequences. The rendering of "recklessly" in the French version of the *Act* is "*inconsidéré*", which would seem to contemplate conduct that is engaged in without any prior reflection ("un manque de refléxion; qui n'a pas été considéré, pesé": *Le petit Robert de la langue française* - 2006).

[101] In my view, the term in either language can be ascribed to Bell's discriminatory practice in this case. Ms. Long did not appear to have reflected on the consequences of her rather abrupt response to Ms. Cole's PGU request. Bell's subsequent decision to treat Ms. Cole's case as a medical matter was also taken without any consideration of whether breastfeeding should be treated in the same manner as a disability or illness in the first place. This decision gave rise to a number of unfortunate consequences for Ms. Cole, including the inconvenience of numerous unnecessary trips to her physician.

[102] Section 53(3) states that compensation of as much as $20,000 can be awarded pursuant thereto. Taking into account all of the circumstances in this case, including the fact that Bell's discriminatory actions were not truly "wilful" nor malicious, I order Bell to pay Ms. Cole $2,000 as special compensation under s. 53(3).

(iv) Lost income

[103] Ms. Cole requests compensation for her lost wages arising from the discriminatory practice pursuant to s. 53(2)(*c*). This claim can be divided into three classes. The first relates to the occasions when she had to leave work without pay in order to meet her physician and obtain the medical notes and forms that the DMG had requested. The second form of claim is in regard to the time spent by her away from work to attend the hearing into her complaint as well as the two unsuccessful mediation sessions that preceded the hearing. Finally, she is also requesting compensation for the three days that she spent preparing for the hearing (one of which was a work day that she took as PGU time off without pay).

[104] With respect to the first class of claim, I order Bell to pay Ms. Cole the wages that she lost while attending at her physician's office to obtain the requested medical notes and reports.

[105] In respect of the other two types of claims, in my view, there is no evidence before me of any "exceptional circumstances" in this case that would justify awarding such damages (see *Canada (A.G.) v. Lambie* (1996), 124 F.T.R. 303, [1996] F.C.J. No. 1695 (F.C.T.D.); *Woiden v. Lynn* (2002), 43 C.H.R.R. D/296 (C.H.R.T.)). Ms. Cole's claims under these heads of damages are therefore dismissed.

(v) Interest

[106] Interest is payable in respect of the monetary awards made in this decision (s. 53(4) of the *Act*). The interest shall be calculated in accordance with Rule 9(12) of the Tribunal *Rules of Procedure*, but given the relatively tardy filing of Ms. Cole's human rights complaint in relation to the discriminatory practice, the interest shall run from the date of the complaint's filing, April 14, 2004.

(vi) Retention of jurisdiction by the Tribunal

[107] The Tribunal will retain jurisdiction to receive evidence, hear further submissions and make further orders, with regard to any disputes or difficulties arising from the interpretation or implementation of the remedies ordered.

"*Signed by*"

Athanasios D. Hadjis

OTTAWA, Ontario
April 4, 2007

PARTIES OF RECORD

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APPEARANCES:	
Hayley Cole	For herself
No one appearing	For the Canadian Human Rights Commission
Johanne Cavé	For the Respondent