

CANADIAN HUMAN RIGHTS TRIBUNAL TRIBUNAL CANADIEN DES DROITS DE LA
PERONNE

MICHAEL POCHAY

Complainant

- and -

CANADIAN HUMAN RIGHTS COMMISSION

Commission

- and -

CORRECTIONAL SERVICE OF CANADA

Respondent

RULING

MEMBER: Karen A. Jensen 2008 CHRT 45
2008/10/20

[1] The Respondent, Correctional Service of Canada, has filed a motion requesting that the complaint of Michael Pochay be dismissed as abandoned.

[2] Mr. Pochay complained on October 22, 2003 that the Cross Gender Staffing Policies and Guidelines of Correctional Services of Canada were applied in a discriminatory way to male inmates as compared to female inmates in federal institutions.

[3] During the investigation of the complaint by the Canadian Human Rights Commission, the Complainant made contact with the Commission only once on August 17, 2006. Thereafter, he ceased to have any contact with the Commission. Numerous attempts were made to reach the Complainant. However, it appeared that he had moved and changed his phone numbers. The Commission's efforts to locate the Complainant were unsuccessful.

[4] On May 26, 2008 the Tribunal wrote to the parties to advise that the complaint had been referred to it for further inquiry. On June 16, 2008 the letter to the Complainant was returned by Priority Courier, unclaimed and marked "Name not listed 08/05/28". The Tribunal made numerous attempts to contact the Complainant by mail and by telephone. These efforts were unsuccessful. The Tribunal was unable to make contact with the Complainant and the Complainant has made no effort to contact the Tribunal.

[5] On June 26, 2008 a case management teleconference was held to commence preparation for the hearing. The Complainant did not attend the teleconference.

[6] In its motion the Respondent argues that the Complainant has demonstrated an unwillingness to proceed with his complaint. Therefore, the complaint should be dismissed.

[7] For its part, the Commission argues that dismissing a complaint at this stage is an extraordinary remedy and may result in a denial of natural justice. The Commission submits that while the Tribunal has the authority to dismiss a complaint without a hearing (*Canada (Human*

Rights Commission) v. Canada Post Corporation 2004 FC 81, at para. 19), it is premature to do so at the present stage. Rather, the Commission suggests that the Tribunal order the Complainant to comply with Rule 6(1) of the Tribunal's Rules of Procedure by submitting his Statement of Particulars within three weeks, failing which his complaint may be dismissed.

[8] I agree with the Commission's suggestion. The Complainant is therefore directed to serve and file within three weeks of the date of this ruling his Statement of Particulars setting out the items listed in Rule 6(1) of the Tribunal's Rules of Procedure. Should he fail to do so, his complaint may be dismissed.

[9] The present motion is dismissed without prejudice to the Respondent's right to renew its request should the Complainant fail to conform to the requirement to provide his Statement of Particulars within three weeks.

"Signed by"

Karen A. Jensen

OTTAWA, Ontario
October 20, 2008

PARTIES OF RECORD

TRIBUNAL FILE:	T1295/2508
STYLE OF CAUSE:	Michael Pochay v. Correctional Service of Canada
RULING OF THE TRIBUNAL DATED:	October 20, 2008
APPEARANCES:	
No submissions made	For the Complainant
Daniel Poulin	For the Canadian Human Rights Commission
Jeff R. Anderson	For the Respondent