

**CANADIAN HUMAN RIGHTS TRIBUNAL TRIBUNAL CANADIEN DES
DROITS DE LA PERSONNE**

RICHARD WARMAN

Complainant

- and -

CANADIAN HUMAN RIGHTS COMMISSION

Commission

- and -

CRAIG HARRISON

Respondent

RULING

PANEL/MEMBER: Karen A. Jensen 2006 CHRT 16
2006/03/24

[1] On November 24, 2003, the Complainant filed a complaint against Mr. Craig Harrison alleging that Mr. Harrison had communicated hate messages via the Internet contrary to s. 13(1) of the *Canadian Human Rights Act*. The matter has been scheduled for a hearing on April 3, 4 and 5, 2006.

[2] The Complainant has requested that the hearing be adjourned for approximately four to six weeks. The Canadian Human Rights Commission supports this request. The reason for the request is that Mr. Harrison has denied that he was the person who communicated the impugned messages on the Internet. Therefore, the Commission and the Complainant both intend to present evidence at the hearing that will address the issue of the identity of the individual who posted the impugned messages. They state that they have used their best efforts to obtain this information as quickly as possible, but it has recently become apparent that an additional period of about four to six weeks is needed to obtain the information.

[3] Mr. Warman intends to present evidence from a criminal trial involving Mr. Harrison which he states will provide proof that the Respondent was the person who communicated the messages. During the case management teleconference on March 16, 2006 to discuss the Complainant's motion, Mr. Warman indicated that the evidence from the trial will likely provide additional information such as the Internet protocol address of the computer used to communicate the messages in question. This, the Complainant alleges, will assist the Tribunal to determine the identity of the person who communicated the messages.

[4] The Commission, for its part, has requested that Bell Sympatico provide information regarding the identity of the user of an e-mail address that accompanied the messages that are the subject of the complaint. It is anticipated that this information will also shed light on the issue of the use that can be made of another person's e-mail address. This, it is argued, is relevant to the identity of the communicator of the impugned messages.

[5] The Respondent strongly objects to the adjournment. He argues that the Commission and the Complainant have known for some time now that his defense to the complaint was one of mistaken identity. Therefore, they had ample opportunity to obtain the information they needed before the hearing was due to start on April 3. All of the parties agreed to the dates of April 3, 4 and 5, 2006 and, on that basis, Mr. Harrison made arrangements to take time off work. He cannot change those dates now.

[6] The Respondent further argues that the information that is being sought will not establish that he was the communicator of the messages. Finally, Mr. Harrison argues that he has incurred considerable costs as a result of the human rights complaint process. He is fed up and wants to have the matter resolved as quickly as possible.

[7] I have some sympathy for the Respondent's position. It would appear that the Commission and the Complainant have indeed known for some time now that the Respondent was denying that he communicated the impugned messages. Mr. Harrison stated that this has been his position since the investigation was conducted by the Canadian Human Rights Commission. In his Statement of Particulars, dated January 13, 2006, Mr. Harrison alleged that he did not post the messages which are the subject of the complaint.

[8] In its Reply to Mr. Harrison's Statement of Particulars, the Commission requested further details about Mr. Harrison's claim that he did not communicate the messages. The Commission also stated that, depending on the additional information it received from the Respondent, it might call an expert witness, possibly in computers and websites.

[9] In a letter dated February 4, 2006, the Respondent provided further details about his defense. He stated that his computer was not working and was in the repair shop during the time when the messages were posted. He also stated that other people had access to his computer.

[10] In his Notice of Motion, the Complainant stated that he received the Respondent's further particulars on February 13, 2006. During the case management call to discuss the motion, Mr. Warman indicated that he requested the information as soon as possible after he received the Respondent's further Particulars. Due to a processing backlog at the agency that provides the information Mr. Warman has requested, he is unable to obtain the information for another four to six weeks.

[11] Counsel for the Commission wrote to Bell Sympatico on February 16, 2006 to obtain the information described above. He was recently informed by Bell Sympatico that it will take three to four weeks to obtain the requested information.

[12] It is not clear to me why the Commission and Mr. Warman were unable to proceed with their requests for information on the basis of the information that was provided in the Respondent's first Statement of Particulars in January 2006. It was evident from that document that Mr. Harrison was denying that he posted the messages on the basis that they were inconsistent with his values and family background and on the basis that he did not have access to the computer from which the messages were sent during the relevant period of time. I must say that I was not very satisfied with the explanation provided by the Commission and the Complainant during the case management teleconference.

[13] Be that as it may, I recognize that the information that has been sought by the Commission and the Complainant is relevant to a key issue in this case - the identity of the person who posted the impugned messages. I also accept the statements of the Commission and Mr. Warman that there is no way to obtain this information by April 3, 2006 when the hearing is scheduled to begin. Therefore, I am satisfied that the request for an adjournment is denied, the Commission and the Complainant will be denied the opportunity to properly present their case.

[14] In deciding whether to grant an adjournment, the Tribunal must weigh the goal of resolving human rights complaints in a timely manner against the requirement to be fair to all parties and to provide them with a full and ample opportunity to present their case (*Leger v. Canadian National Railway Company*, Interim Ruling, November 26, 1999 (CHRT); stay application dismissed [2000] F.C.J. 243 (T.D.)). In this case, Mr. Warman and the Commission are requesting a relatively short adjournment in order to be able to properly present their case. Mr. Harrison may be understandably frustrated by the postponement, but his opportunity to defend against the complaint is not being delayed unduly.

[15] For these reasons, the Complainant's motion for an adjournment is granted. The Tribunal Registry is instructed to contact the parties to arrange a teleconference to set new dates for the hearing.

'Signed by"

Karen A. Jensen, Member

OTTAWA, Ontario

March 24, 2006

PARTIES OF RECORD

TRIBUNAL FILE:	T1072/5305
STYLE OF CAUSE:	Richard Warman v. Craig Harrison

DECISION OF THE TRIBUNAL DATED:	March 24, 2006
APPEARANCES:	
Richard Warman	For himself
Giacomo Vigna / Ikram Warsame	For the Canadian Human Rights Commission
Craig Harrison	For himself