TRANSLATION FROM FRENCH

TD 8/ 87 Decision rendered on July 28, 1987

CANADIAN HUMAN RIGHTS TRIBUNAL

JOHANNE MORISSETTE Complainant -v CANADA EMPLOYMENT AND IMMIGRATION COMMISSION Respondent

BEFORE: Gilles Mercure, Chairman

APPEARANCES: René Duval Counsel for the Complainant and the Canadian Human Rights Commission

Johanne Levasseur Counsel for the Respondent

> The present tribunal was appointed on August 13, 1986, to inquire into the complaint filed by Johanne Morissette an December 18, 1985.

The parties' final arguments and authorities were submitted to the tribunal on February 9, 1987.

I THE FACTS The complainant obtained her secondary school graduation diploma in 1980 from the Quebec Department of Education (secondary V, specialization " service secretary"). That same year, she graduated as a medical secretary from a private institution recognized by the Department.

In 1983, she worked as a secretary for the firm Caloritech and received a gross salary of $300 a week. In December 1983, she was laid off owing to a shortage of work.

On December 12, 1983, after losing her job, she went to the respondent's office in Pierrefonds. She filled out the usual form, part of which is forwarded to

the unemployment insurance officers and the other to employment officers. The complainant did not meet with an employment counsellor that day.

The complainant soon began receiving unemployment insurance benefits in the amount of $180 a week. On February 13, 1984, she was asked to come to the respondent's office. She met with an employment counsellor, Monique Gignac, an employee of the respondent. The evidence shows that this interview was short, lasting from five to ten minutes. During the interview, the complainant informed the counsellor that she was three to four months pregnant. She in fact gave birth on August 19, 1984.

During this period, the complainant did not hear from Mrs Gignac or any other officer of the respondent regarding job offers for medical secretaries or secretaries.

On June 8, 19841, the respondent sent the complainant a notice informing her that she would no longer be entitled to unemployment insurance benefits beginning June 24, 1984.

> - 3 During the investigation, the respondent produced a notice of failure to qualify which was sent to the complainant on October 22, 1984 (exhibit R- 2) and a notice of re- examination dated November 6, 1984 (exhibit R- 3). The respondent had the complainant take a typing test in October 1984.

On December 18, 1984, the complainant filed the complaint in this case with the Canadian Human Rights Commission. It reads as follows:

[TRANSLATION] I allege that I was discriminated against on the basis of sex (pregnancy) in violation of section 5 of the Canadian Human Rights Act. The respondent, through an employment counsellor, denied me services relating to my job search because of my pregnancy.

II COMPLAINANT'S ALLEGATION OF DISCRIMINATION The complainant alleges that she was discriminated against by the respondent, on the basis of sex, by being denied services relating to her job search.

As evidence, the complainant presented the following main facts. > - 4 a) Meeting of February 13, 1984

As we know, this interview lasted only a few minutes. The complainant testified that after she told Mrs Gignac in the interview that she was pregnant, the meeting took an unexpected turn. In her testimony before the tribunal, she summarized the interview with the employment counsellor as follows:

[TRANSLATION]

A: I believe it was February 13, 1984. Q: February 13. Thank you. Go ahead, Mrs Morissette. R: Okay. I arrived at nine o'clock in the morning. When I went into

her ... her small office, she asked me if I had started looking for a job. I told her that I had. She then asked me where I had looked. I told her, among others, the Montreal Children's Hospital. She asked me what happened. I told her that I had been turned down because I was ... because I was pregnant. Then she asked: "You're pregnant?" I said yes. She asked me how many months. I told her about four months. Then she said: "Fine. I'll set your file aside and I won't take up any more of your time." I asked her if I would continue to receive unemployment benefits anyway. She said yes, and told me that there would be no problem. That was it. I left.

On cross- examination, she repeated: > - 5 [TRANSLATION]

R: ... I'm telling you what she told me. She said she was setting my file aside. Then she picked it up and placed it on a small filing cabinet off to the side, a small cabinet with two drawers. Then she said she wouldn't take up any more of my time. Then good- bye, "Next!"

We see from the complainant's testimony that, in her view, as soon as the employment counsellor learned that she was pregnant, she was no longer prepared to assist her in finding a job. The complainant also testified that her file was set aside and all that she was promised was that she would continue to receive unemployment insurance benefits.

b) Provision of services by the respondent At this point, it is important to recall that in both her complaint and in her written evidence, the complainant faulted the respondent not for denying her, because she was pregnant, the unemployment insurance benefits to which she claimed she was entitled, but for refusing to help her find a job. It was mentioned during the hearing that the complainant was disentitled to continuation of unemployment insurance benefits for

> - 6 a period beginning on June 24, 1984, because she was pregnant. However, the issue in this case, as set out in the complaint and the written argument of the parties, concerns solely the services provided by the respondent to the complainant to help her find employment.

The complainant testified that her purpose in going for an interview with Mrs Gignac was to find a job. In cross- examination, she stated:

[TRANSLATION] Q: What interested you was finding out whether or not you would have

problems with unemployment insurance. R: After she told me that. Because the reason I went there was to do tests for a job.

However, she testified that she did not receive the services to which she was entitled. She further testified that she had told Mrs Gignac during the interview on February 13, 1984, that she was looking for a job, preferably as a medical secretary or, failing that, a service secretary.

> - 7 [TRANSLATION] Q: Did she ask you what type of work you were looking for? A: Yes. Q: What was your reply? A: Well, she asked me what my preference was Q: Yes. A: ... because it's always in order of preference. I told her preferably medical secretary, and failing that, service secretary.

The expression "service secretary" is important in this case, as we will see later. For the complainant, the terms "secretary" and "service secretary" are synonymous. In cross-examination, she explained:

[TRANSLATION] Q: You stated that your last job was ... In response to Mr Duval's question earlier of what your job was before being on unemployment insurance, what did you say?

R: Service secretary. Q: Or did you specify simply "secretary" on your registration form? R: Secretary means service secretary. That's the correct term. Indeed, Form C- 4, filled out by the complainant at the respondent's office during her first visit shows us that in reply to the question "What type of work are you looking for? (in order of preference)", the complainant specified "medical secretary, service secretary". In the section listing her diplomas, she wrote "medical secretary - service secretary."

> - 8 In response to the question "What position did you occupy?" under the heading "work history", she indicated "secretary".

However, she faulted the respondent for failing to inform her of any available job offers for a position as medical secretary or other secretarial positions after the interview of February 13, 1984. The evidence shows that

the respondent's office received no employment offers for medical secretary positions during this period. However, the complainant referred the tribunal to exhibit C- 6, a series of computer printouts which shows that the respondent received several offers during this period for secretary positions.

On the basis of the above facts, the complainant concluded, through her counsel, who was also acting for the Commission, that the respondent had denied her the services to which she was entitled because she was pregnant.

> - 9 III RESPONDENT'S RESPONSE TO THE ALLEGATIONS OF DISCRIMINATION The respondent called two witnesses: Monique Gignac, an employment counsellor, who handled the complainant's file, and Claude Brouillard, a consultant from the respondent's regional office.

Mrs Gignac gave her version of the interview of February 13, 1984, and explained why the complainant had not been informed of any job offers.

a) Interview of February 13, 1984 Mrs Gignac testified that when the complainant came to her office for the interview, she had already received, in accordance with the usual procedure, the part of form C- 4 intended for the use of her service, which she called the "employment copy". According to her, the complainant only told her that she was looking for a job as a medical secretary. She did not remember the complainant saying, during this interview, that she was interested in other secretarial positions.

> - 10 [TRANSLATION] Q: ... she was called for an interview. You had the form that she had filled out. What happened then?

R: She said she wanted a job as a medical secretary. She had taken a course with a medical secretary option. She was bilingual, there was no problem. She knew how to type, she had experience. So, I took her application, that's all. I was considering it for future employment offers.

Q: Did she say anything about a service secretary? R: Not to my ... not that I recall. It was at the end of this brief interview that she learned the complainant was pregnant. After the complainant left, Mrs Gignac made personal notes regarding the interview on the back of form C- 4.

[TRANSLATION] Would like a job as a medical secretary, bilingual - presently four months pregnant - salary $300/ week - ready to work. Prefers hospital -

refer temporary position. Asked by counsel to comment on the complainant's allegation that she said she was setting the complainant's file aside when she learned she was three to four months pregnant, the respondent stated:

[TRANSLATION] Q: Mrs Morissette testified earlier that you told her that you were setting her file aside. Do you recall saying that?

R: No, I don't. > - 11 b) Services provided to the complainant

Mrs Gignac testified that the complainant's file had not been closed following the interview, that it remained active and that it was filed with the others in a regular filing cabinet.

She admitted that she had not informed the complainant of any job offers and that she had received offers of employment for secretaries or, in her words, for "general secretaries" at her office during this period. She testified that she had not informed the complainant of these offers because she did not know that the complainant was interested in a secretary position. She was under the impression, she stated, that the complainant wanted help finding work as a medical secretary only.

[TRANSLATION] Q: But you said that you also had job offers for secretaries. R: Well yes ... Q: ... uh ... R: General secretaries. Q: 41 ... R: 41- 11, it's the same thing. Q: You had ... R: For general, yes. Q: But you did not contact Mrs ... R: No, because ... Q: Morissette. R: I would have ... I was waiting for an offer for a medical secretary.

>

- 12 She testified that if there had been offers for medical secretaries, she would not have hesitated to inform the complainant of them. On examination in chief, she stated:

[TRANSLATION] Q: But if you had received an offer for a permanent position as a medical secretary, would you have referred Mrs Morissette for the position?

R: I would have called her. I would have offered it to her. Of course.

Mrs Gignac, we have seen, did not recall the complainant stating at the February 13 interview that she was interested in a secretary position. At the investigation, she acknowledged that when the complainant filled out form C- 4, she wrote "medical - service secretary" in two places. She added, however, that she did not know the meaning of the expression "service secretary", that these words meant nothing to her.

[TRANSLATION] Q: Did it surprise you that she wrote "service secretary"? R: No, at the oral interview, she said she was interested in a job as a medical secretary, and that's what I remembered.

Q: At that time, did service secretary mean anything to you? R: No. A little later, she testified: > - 13 Q: ... the expression "service secretary"

R: It doesn't exist. Q: ... it doesn't refer to anything. R: It's not in our ... our directory of occupations. It's not an expression we use. It didn't mean anything to me.

IV THE LAW Section 5 of the Canadian Human Rights Act states:

5. It is a discriminatory practice in the provision of goods, services, facilities or accommodation customarily available to the general public (a) to deny, or to deny access to, any such good, service, facility or accommodation to any individual, or (b) to differentiate adversely in relation to any individual, on a prohibited ground of discrimination.

Section 3 of the Act lists the prohibited grounds of discrimination:

3. (1) For all purposes of this Act, race, national or ethnic origin, colour, religion, age, sex, marital status, family status, disability and conviction for which a pardon has been granted are prohibited grounds of discrimination.

(2) Where the ground of discrimination is pregnancy or child- birth, the discrimination shall be deemed to be on the ground of sex.

In Christine Morrell v Canada Employment and Immigration Commission, (6, CHRR, D/ 3021), the Human Rights Tribunal ruled:

> - 14 Unemployment insurance is a service provided by the Respondent. Not only is it generally available to the public, but indeed it is a service which most employed members of the public are legally required to participate in. (p 4)

In Darlene Corlis v Canada Employment and Immigration Commission (Human Rights Tribunal decision, April 1987), the tribunal ruled as follows:

I find that the Morrell case is an authority for the proposition that section 5 of the Canadian Human Rights Act applies in this case, and that unemployment insurance benefits are services, as envisioned in section 5 of the Act; (p 8)

In this case, the evidence refers, with respect to services, not to unemployment insurance benefits, but to the assistance that the respondent must provide to workers who are looking for employment. Section 139(1) of the Unemployment Insurance Act requires the respondent to maintain an employment service "to assist workers to find suitable employment and employers to find suitable workers". The tribunal can categorically state that such assistance constitutes a service under section 5 of the Canadian Human Rights Act.

> - 15 The main issue, therefore, is to decide whether the respondent, as a supplier of services, denied the complainant services or adversely differentiated in relation to her in the provision of services, on a prohibited ground of discrimination, as defined by the above acts.

a) Burden of proof The rule, in our law, is that the burden of proof lies on the party who claims that a third party has caused him injury. The same principle applies before the Human Rights Tribunal, and the burden of proof is on the complainant.

The question that has been raised numerous times in this type of case is: what degree or what quality of probative force must be required of the complainant?

It has been decided on several occasions that the complainant must first

establish a prima facie case of discrimination. If the complainant successfully does so, it is then up to the respondent to provide a reasonable explanation for his conduct, or for the set of facts

> - 16 relating to his conduct, with respect to which the complainant has established, prima facie, that there was discrimination within the meaning of the Act.

In Jean- Louis Pelletier and Brazeau Transport Inc (Human Rights Tribunal decision, February 1987), the tribunal ruled as follows:

Referring to the Borough of Etobicoke ruling, which was followed by the O'Malley and Bhinder rulings, counsel for the Commission argued that the burden on the Commission was to establish prima facie evidence of discrimination, and that, if such evidence was established, the burden was reversed, and it was then up to the respondent to show that there had been no discrimination.

The tribunal shares the view of counsel for the Commission, and, in light of the evidence, finds that the Commission has discharged the chief burden on it by establishing a prima facie case of discrimination on the basis of age.

In Julius Israeli v Canadian Human Rights Commission (CHRR, vol 4, paragraphs 13852 to 13895), the tribunal summarizes the shift of the burden of proof as follows:

13858 The burden of proof in discrimination cases is important, as is the order of presentation of the evidence. Cases of refusal of employment on discriminatory grounds before boards of inquiry in Canada, whether at the federal or provincial level, all seem to employ the same burden and order of proof. The complainant must first establish a prima facie case of discrimination. Once this is done, the burden

> - 17 of proof shifts to the employer to provide a reasonable explanation for the otherwise discriminatory behaviour. Finally, the burden shifts back to the complainant to prove that this explanation was merely a "pretext" and that the true motivation behind the employer's actions was in fact discriminatory.

In Darlene Corlis, the tribunal wrote: The O'Malley case is authority for the proposition that the onus to prove discrimination first rests on the complainant, who must establish a prima facie case.

The onus then shifts to the employer to show that he has taken such reasonable steps to accommodate the employee as are open to him without undue hardship.

The case also, I believe, stands for the proposition that intention

is irrelevant. Although these decisions apply to specific cases, we believe that they effectively convey the principles that should guide the tribunal with respect to the burden of proof in the application of the Canadian Human Rights Act.

In this case, this tribunal feels that the complainant has established prima facie, or until refuted by evidence to the contrary, the following facts:

> - 18 a) she duly filled out form C- 4 in order to obtain both unemployment insurance benefits and assistance in finding work;

b) she was three to four months pregnant at the time of the interview of February 13, 1984, and informed Mrs Gignac of her pregnancy;

c) Mrs Monique Gignac, an employee of the respondent, allegedly told her that she was setting her file aside, that she would not take up any more of her time, and that the complainant would continue to receive unemployment insurance benefits;

d) at the interview with Mrs Gignac, the complainant asked for assistance in finding employment, preferably as a medical secretary or, failing that, a service secretary;

e) offers of employment for secretary positions were sent to the respondent's office during the period involved in this case;

f) during the period in question, the respondent did not provide the complainant with any assistance in her search for employment and did not inform her of any offers of employment for secretary positions that she had received at her Pierrefonds office.

> - 19 After studying all this evidence, the tribunal had no difficulty in finding that the complainant had discharged the burden on her by establishing, prima facie (until proved otherwise), that she was discriminated against on the basis of sex within the meaning of the Canadian Human Rights Act.

Of course, the respondent was allowed, if she was able, to refute the evidence presented by the complainaint and to convince the tribunal that, despite first appearances, the facts bore no trace of discrimination against the complainant.

V RESPONDENT'S EVIDENCE The only witness heard who was able to refute the evidence presented by the complainant was Monique Gignac. She was responsible for the complainant's file and was alone with her during the interview examined above. There are at least two very important points in the complainant's testimony that she was unable to refute completely.

First, there is the rather disturbing statement that she is alleged to have made to the complainant when she learned that the complainant

> - 20 was pregnant, namely, that she would set her file aside. As we have seen, the complainant's testimony on this point was positive, clear and categorical. On cross- examination, she repeated, virtually word for word, the account of the interview that she had given on examination in chief. Each time, she emphasized Mrs Gignac's statement: "I'm setting your file aside and I won't take up any more of your time."

Mrs Gignac was present when the complainant gave her testimony. In her own testimony, Mrs Gignac stated only that she did not recall saying that.

The same is true with regard to the complainant's positive categorical testimony that she had indicated to Mrs Gignac that she wanted to find employment as a medical secretary or service secretary, in that order of preference; her testimony is corroborated by exhibit C- 4. Here again, Mrs Gignac merely told the tribunal that she had no recollection of the complainant mentioning a job as a service secretary in her presence.

On these two important points, the tribunal felt justified in preferring the positive testimony of the complainant to the more hesitant and much less categorical testimony of Mrs Gignac.

> - 21 Counsel for the respondent skillfully argued in writing that the complaint should be dismissed for a number of reasons, two of which in particular drew the tribunal's attention. We believe that the other reasons raised by counsel for the respondent for dismissing the complaint are discussed generally elsewhere in this decision.

The two arguments to which we are referring are as follows: first, the evidence reveals that the complainant faults the respondent not for failing to provide her assistance in finding employment but only for denying her unemployment insurance benefits during the period beginning June 24, 1984. In brief, the respondent argued that the evidence was unrelated to the subject of the complaint.

Secondly, if the respondent refused to assist the complainant in finding employment or differentiated adversely in relation to her in the provision of this service, it was not because of discrimination against the complainant, but rather a simple misunderstanding, which cannot be penalized under the Canadian Human Rights Act.

> - 22 The tribunal could not accept the respondent's first argument. There is no doubt that when the complainant filled out form C- 4 during her initial visit to the respondent's office, she wished to receive unemployment insurance benefits, as she was entitled. However, the evidence shows that she also wanted assistance in finding employment.

The complainant's testimony that she had applied for positions before the meeting of February 13 at, among other places, the Montreal Children's Hospital, was in no way refuted. Nor was her evidence that, after this interview, she continued trying to find a job herself; she went to private

agencies, such as Quantum and Optimum, and contacted potential employers, including Christina Canada and Tangerine.

The tribunal is aware that the complainant's decision to file the complaint may not be unrelated to the fact that she was denied unemployment insurance benefits beginning on June 24, 1984. It is also possible that the complainant erred in her interpretation of the Unemployment Insurance Act and mistakenly

> - 23 believed that if she had found a job between February 13 and June 24, 1984, she would have been entitled to maternity benefits. It is also possible to speculate that if the complainant had been independently wealthy, she would not have filed this complaint with the Commission.

However, the tribunal believes that its role is not to examine the secondary reasons underlying a person's decision to file a complaint or the circumstances surrounding the filing of the complaint, but rather to decide whether the complaint, as filed, is substantiated in light of the evidence presented.

In this case, the tribunal believes that the evidence presented by the complainant effectively addressed the issue that was the subject of the complaint.

The respondent's second argument does not stand up to analysis any better. The tribunal cannot accept as a reasonable explanation by the respondent Mrs Gignac's statement that she did not inform the complainant of any job offers for secretary positions after the interview of February 13 because she did not know that this type of position would have interested the complainant.

> - 24 Mrs Gignac was an employment counsellor. She described her duties as follows:

[TRANSLATION] R: Yes, employment counsellor, that is receiving clients looking for employment, going over their qualifications, checking their applications and trying to ... to satisfy their requirements.

Q: Was there a group of individuals for whom you were particularly responsible?

R: Secretaries and all clerical personnel, plus shipping clerks, I believe.

Mr Claude Brouillard, a consultant from the respondent's regional office,

defined the role of employment counsellor as follows: [TRANSLATION] However, the counsellor has a somewhat more complex role. The counsellor's role is initially to verify the criteria. But if someone is having problems finding a job, or is unwilling to accept a position, then, at that point, the counsellor undertakes a "counselling" process with that person. That is why they are called employment counsellors, because they must enter into a helping relationship with the client.

Mrs Gignac, we saw, did not categorically deny that the complainant had told her that she was looking for employment as a secretary. She had on hand form C- 4 on which the complainant had

indicated in two places that she was looking, as her second choice, for work as a service secretary. She knew, by exhibit C- 4, that the

> - 25 complainant's last job had been a secretarial position with Caloritech, which, she said she knew, did not normally hire medical secretaries.

Mrs Gignac testified that the expression "service secretary" did not mean anything to her at the time. Such a statement from an employment counsellor who was responsible for performing the duties previously described by Mrs Gignac herself and by Mr Brouillard is somewhat perplexing. The tribunal has no problem believing that, as Mr Brouillard explained, this expression is not found in the Canadian Classification and Dictionary of occupations. However, to have us believe that Mrs Gignac had no idea of what the complainant meant by the expression is a different matter altogether. If she did not know what the expression meant, was it not her responsibility as described above to help the complainant define the type of employment she was looking for?

In any case, the tribunal believes that even if it accepted this statement, it did not explain why the respondent did not inform the complainant of the offers of employment for secretary positions it received. Mr Brouillard testified that even if the complainant had said she was

> - 26 looking for work as a medical secretary, and had not indicated that she would accept, as a second choice, a job as a secretary, it would be normal, under the usual procedure followed by the respondent, to inform the complainant of offers of employment for secretary positions.

[TRANSLATION] Q: ... legal. In your experience, if a person came to you and said she was looking for a job as a legal secretary, for instance ...

R: Uh- huh. Q: ... if there was not a single offer of employment in a law office ...

R: Uh- huh. Q: ... but there were secretary positions which could be interesting, would that person normally be informed of them?

R: Yes, yes usually. That person would be offered the position of secretary. However, if the person really wanted to work as a legal secretary and preferred to wait, then the counsellor could inform the person that she had a job for a legal secretary. If that interested her, she could apply for it. If not, she could wait. It depends on each individual case. There are some people who prefer to wait, while others would take it right away. Normally, however, because the code, the occupational code is the same, that is ... it is the same code and therefore the records are filed under a single code. So, when an offer of employment arrives with this code, at that time, the counsellor only has to check the ... the codes in which all the secretarial positions are found.

For the above reasons, after reviewing the evidence presented in the file, the tribunal finds that the respondent did not provide reasonable explanations in response to

> - 27 the complainant's evidence, which was considered sufficient, establishing that the respondent discriminated against her on a prohibited ground of discrimination, namely sex.

VI REMEDY The powers of the tribunal to make orders when it finds that a complaint is substantiated are set out in sections 41 and 42 of the Canadian Human Rights Act.

Subsection (2) of section 41 reads as follows: (2) If, at the conclusion of its inquiry, a Tribunal finds that the complaint to which the inquiry relates is substantiated, subject to subsection (4) and section 42, it may make an order against the person found to be engaging or to have engaged in the discriminatory practice and include in such order any of the following terms that it considers appropriate:

(a) that such person cease such discriminatory practice and, in order to prevent the same or a similar practice from occurring in the future, take measures, including

(i) adoption of a special program, plan or arrangement referred to in subsection 15(1), or (ii) the making of an application for approval and the implementing of a plan pursuant to section 15.1, in consultation with the Commission on the general purposes of those measures; (b) that such person make available to the victim of the discriminatory practice on the first reasonable occasion such rights, opportunities or privileges as, in the opinion of the Tribunal, are being or were denied the victim as a result of the practice; (c) that such person compensate the victim, as the Tribunal may consider proper, for any or all of the wages that the victim was

deprived of and any expenses incurred by the victim as a result of the discriminatory practice; and

> - 28 (d) that such person compensate the victim, as the Tribunal may consider proper, for any or all additional cost of obtaining alternative goods, services, facilities or accommodation and any expenses incurred by the victim as a result of the discriminatory practice.

In light of the facts in this case, the tribunal does not feel that paragraph (a) is applicable. Further, on the basis of the evidence presented and in light of the fact that the complainant eventually found a job, it does not believe that paragraph (b) is applicable.

As for paragraphs (c) and (d), counsel for the complainant and for the Commission asked in his written argument that the tribunal order the respondent to pay the complainant the difference between the amount of unemployment insurance benefits she received ($ 180 a week) and the salary that she would presumably have earned ($ 300 a week) if she had had a job for the period from February 13, 1984, to her date of confinement: August 19, 1984.

The tribunal does not feel it could accede to such a request. Where the evidence reveals that an employer refused to hire a person or laid him off on a prohibited ground of discrimination, the tribunal may order that the victim be paid all or part of the salary he did not receive

> - 29 and which he would have earned if it were not for the discriminatory act. It was decided, in such cases, that the party which acted in a discriminatory manner could not require the complainant to prove that he would have kept the job if he had been hired or if he had not been laid off. In the case before us, it is not a matter of deprivation of a job at a pre- established salary or of denial of benefits in an amount indicated in the evidence.

The service that the respondent was required to provide to the complainant was to help her to find employment. On the basis of the evidence, as presented, it is impossible to accurately estimate without being arbitrary, the direct monetary damage actually suffered by the complainant as a result of the discriminatory act of the respondent and provided for under paragraph (c) of subsection 2.

As for section 41(2)(d), there is no evidence to warrant its application.

The tribunal believes, however, that it must make an order under section 41(3) of the Act.

> - 30 The evidence indicates that the complainant was in fact looking for

employment between December 12, 1983 and the summer of 1984. Although it may be true that she was frustrated by the discontinuation of her unemployment insurance benefits, as counsel for the respondent stressed, the tribunal, having listened to, read and examined her testimony, has no doubt that she was also frustrated and disillusioned and suffered injury to feelings and self-respect as a result of the treatment she received when she asked for assistance in finding employment.

Although it is painful for anyone to be the victim of discrimination, being pregnant, as the complainant herself underlined, certainly does not alleviate the tension, frustration and injury to feelings and self- respect caused by the discriminatory act.

In light of the evidence presented, the tribunal feels it is justified in setting the amount of compensation to be paid to the complainant for injury to feelings and self- respect under section 41(3) of the Act at $1,500.

FOR THESE REASONS, THE TRIBUNAL: FINDS that the complaint dated December 18, 1984, is substantiated; > - 31 ORDERS the respondent, the Canada Employment and Immigration Commission,

under section 41(3) of the Canadian Human Rights Act, to pay the complainant compensation in the amount of $1,500.

COWANSVILLE, this 10th day of July 1987. (signed) Gilles Mercure Chairman of the Tribunal