

**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

MEMBER: Karen A. Jensen 2006 CHRT 19
2006/04/05

[1] This is a ruling regarding the production of documents by third parties. The complaint involves allegations that the Respondent, Mr. Craig Harrison, allegedly communicated hate messages over the Internet contrary to s. 13(1) of the *Canadian Human Rights Act*.

[2] The Complainant, Richard Warman, has filed a motion requesting that the Tribunal order a person who is not a party to this complaint, Mr. Marc Lemire, to produce documentation relating to pseudonyms that were allegedly used by the Respondent in this case. The Complainant states that this information is relevant and necessary to prove the identity of the person who communicated the material that is alleged to violate s. 13(1) of the *Act*.

[3] The Complainant argues that the Tribunal has the authority under subsections 50(2) and 50(3) of the *Act* to order people who are not parties to the proceedings to produce documents. I disagree.

[4] Subsection 50(1) of the *Act* requires the Tribunal to hold an inquiry into complaints that are referred to it by the Canadian Human Rights Commission. Subsection 50(2) provides the Tribunal with the authority to determine all questions of law and fact necessary to determining the matter. Subsection 50(3) grants the Tribunal additional powers to enable it to conduct a thorough inquiry. In particular, subsection 50(3)(a) authorizes the Tribunal to summon and enforce the attendance of witnesses to give oral or written evidence and to produce any documents considered necessary. Subsection 50(3)(c) allows the Tribunal to receive and accept evidence whether or not it would be admissible in a court of law. These provisions do not provide the Tribunal with the

authority to compel people who are not witnesses or parties to the proceedings to produce documents. Mr. Lemire has not been listed as a witness in this case.

[5] The Complainant relies upon *Metcalf v. International Union of Operating Engineers, Local 882 and others (No. 7)* 2005 BCHRT 165 as authority for the proposition that this Tribunal has the power to order third party production of documents. I disagree. *Metcalf (No. 7)* is a case from the British Columbia Human Rights Tribunal. That Tribunal is subject to very different legislation. The British Columbia *Human Rights Code* was amended recently to incorporate a provision of the *Administrative Tribunal Act*, S.B.C. 2004, c. 45 that explicitly gives the British Columbia Human Rights Tribunal the power to order production of documents from third parties. The Tribunal in *Metcalf (No. 7)* noted that prior to that amendment it did not have the power to order third party production and for that reason it had declined to do so.

[6] In my view, the Canadian Human Rights Tribunal does not have the power to order the production of documents from third parties who are not witnesses. For that reason, I decline to order the production of the documents requested by the Complainant in his motion.

"Signed by"

Karen A. Jensen

OTTAWA, Ontario
April 5, 2006

PARTIES OF RECORD

TRIBUNAL FILE:	T1072/5305
STYLE OF CAUSE:	Richard Warman v. Craig Harrison
RULING OF THE TRIBUNAL DATED:	April 5, 2006
APPEARANCES:	
Richard Warman	For himself

Giacomo Vigna/ Ikram Warsame	No representations made for the Canadian Human Rights Commission
Craig Harrison	No representations made