

TD 9/90
Decision rendered on August 13, 1990

THE CANADIAN HUMAN RIGHTS ACT
R.S.C. 1985, c. H-6 (as amended)

HUMAN RIGHTS TRIBUNAL

BETWEEN:

PETER ODIATU

Complainant

- and -

CANADIAN HUMAN RIGHTS COMMISSION

Commission

- and -

ROYAL CANADIAN MOUNTED POLICE

Respondent

DECISION OF TRIBUNAL

BEFORE:

Perry W. Schulman, Q.C.
Holly C. Beard, Q.C.
Antonio De Joseph

APPEARANCES:

Anne Trotier - Counsel for the Canadian Human Rights Commission

Harry Gliner - Counsel for Royal Canadian Mounted Police

Peter Odiatu - Appearing for himself as Complainant

DATE AND PLACE OF HEARING:

June 5-6, 1990
Winnipeg, Manitoba

This is a complaint under sections 5 and 13.1 (now section 14(1)) of the Canadian Human Rights Act, R.S.C. 1985, c. H-6. The complaint, dated September 29, 1987 alleges that on August 20, 1987 the Royal Canadian Mounted Police discriminated against the Complainant by differentiating adversely in relation to him and harassing him because of his race and colour.

Two witnesses were called by counsel for the Human Rights Commission. The witnesses were Peter Odiatu, the Complainant and Harold Rampersad, Co-ordinator of the City of Winnipeg Race Relations Committee. Five witnesses were called by counsel for the R.C.M.P. They were Corporal James Ward, Corporal Brian Sale (Constable at the time), Constable Ron Obodzinski, Staff Sergeant Gerald W. Elliot and Lynette Tennison, an Enforcement Officer with the Canada Employment and Immigration Commission.

In essence, Mr. Odiatu's complaint is that at about 5:30 p.m. on the day in question, he was in room 15 at the Norwood Hotel in Winnipeg, a place where he was temporarily residing, when he heard a loud kick at his door. He rushed to the door and opened it and saw two plainclothes R.C.M.P. officers, one of whom flashed an identification badge. One of the officers who he identifies as Corporal Ward stated that the R.C.M.P. had received information that Mr. Odiatu was illegally in Canada. He asked Corporal Ward who gave that information and Corporal Ward said that he was not prepared to divulge the name.

Mr. Odiatu says that he told Corporal Ward that he came to Canada over ten years ago and asked the police officers to go away. The police officers were pushing to go into his room but he stood his ground and an exchange took place in the area of the door. After telling the officers that he is a Canadian citizen, he spelled his name for them. The police officers left, one of them, Corporal Sale having hurried the complete length of the hallway and down the stairs. When Corporal Ward was five or six feet away from Mr. Odiatu, headed away from his room, Corporal Ward turned his head in Mr. Odiatu's direction and said the words "you black bastard". Corporal Ward went on to say that we will be back. Mr. Odiatu interpreted the words that "we will be back" as a threat. Mr. Odiatu heard nothing further from the R.C.M.P., but made a complaint the following day to the Race Relations Committee of the City of Winnipeg.

The two R.C.M.P. officers deny the gist of the allegation. In essence they told us that having received information from a source, previously known to be reliable, they were required to make inquiries as to whether or not Mr. Odiatu was in the country legally. They first made standard searches but were unable to find a record of Mr. Odiatu becoming a landed immigrant. They attended to interview him. They knocked on the door at room 15. Mr. Odiatu came to the door. They told him that they were looking for Peter Odiatu. Mr. Odiatu identified himself as the person. They produced R.C.M.P. identification. They stated that they were there to make inquiries to determine whether or not Mr. Odiatu was properly in the country. They

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asked if they could step into his room. Mr. Odiatu asked them to stay where they were, and they complied. He stated that he had been in Canada for ten years. They tried to explain to him the nature of the inquiries that they were making. He, despite requests, refused to produce identification. They felt that further questioning of him would be useless. Towards the end of the discussion, Mr. Odiatu disclosed that he had arrived in Canada in 1971, either in Toronto or Montreal. They considered that this information was sufficient for them to make additional inquiries without bothering Mr. Odiatu further. They turned to walk away, saying that if more information is required, they may come back. When they were down the hall from him, Corporal Sale being about 5 or 6 feet ahead of Corporal Ward, they both heard Mr. Odiatu say "I heard that". They turned and asked Mr. Odiatu what he had heard and he said "you told me to fuck off". They said nothing in reply, left the premises, made further inquiries and established that Mr. Odiatu had arrived in Toronto on March 21, 1971. Satisfied that the informant had given incorrect information, they closed their file.

We make the following findings of fact:

1. Mr. Odiatu sincerely believes that he heard the police officers make some kind of offensive comment as they walked away from his room. This belief has obviously caused him a great deal of distress, and in fact continues to do so, and we felt a great deal of sympathy for him.

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2. Mr. Odiatu had good reason to be offended given that some unknown person had accused him, a landed immigrant for some 16 years and a Canadian citizen for over 10 years, of being an illegal alien. We

understand why he was very upset when his Canadian citizenship, which is very important to him, was called into question.

3. The police officers were properly carrying out their job in following up on the anonymous tip. The evidence does not establish that this investigation was started or continued because Mr. Odiatu was Black.

4. Having heard and considered all of the evidence and having given Mr. Odiatu the widest possible latitude to present evidence, cross-examine witnesses and make representations on his own behalf, we are still not convinced on a balance of probabilities that the offensive comments that Mr. Odiatu believes he heard, were actually made.

Accordingly we dismiss the complaint.