

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

HARRY ABRAMS

- and -

THE LEAGUE FOR HUMAN RIGHTS OF B'NAI BRITH CANADA

Complainants

- and -

CANADIAN HUMAN RIGHTS COMMISSION

Commission

- and -

ARTHUR TOPHAM

- and -

RADICALPRESS.COM

Respondents

RULING

MEMBER: Karen Jensen 2009 CHRT 12
2009/04/09

[1] The Canadian Free Speech League (CFSL) brought a motion on March 19, 2009, for interested party status in the complaint of Harry Abrams and the League for Human Rights of B'nai Brith Canada v. Arthur Topham (and RadicalPress.com). Douglas Christie, General Counsel for CFSL, states that the organization seeks to intervene to challenge the constitutional validity of s. 13(1) of the *Canadian Human Rights Act (CHRA)*.

[2] On March 21, 2009, the Respondent, Mr. Topham, served notice that he intends to challenge the constitutionality of ss. 13, 54(1), and 54(1.1) of the *CHRA*.

[3] Section 50 of the *Canadian Human Rights Act* gives the Tribunal discretion to grant interested party status. The onus is on the applicant to demonstrate how its expertise will be of assistance in the determination of the issues. Interested party status will not be granted if it does not add significantly to the legal positions of the parties representing a similar viewpoint: *Schnell v. Machiavelli and Associates Emprize Inc.*, [2001] C.H.R.D. No. 14 at para. 6 (C.H.R.T.) (QL); *Nkwazi v. Canada (Correctional Service)*, [2002] C.H.R.D. No. 15 at para. 22 (C.H.R.T.)(QL); *Warman v. Lemire* 2006 CHRT 8.

[4] In his motion, Mr. Christie does not indicate whether he wishes to lead evidence, what evidence that would be, and how much time would be taken up with that evidence. I do not know if Mr. Christie intends to examine or cross-examine witnesses called by other parties.

[5] As a result, I am unable to determine whether the CFSL will add significantly to the legal position of the Respondent in this matter. Moreover, I am unable to assess the extent to which the hearing would be prolonged by reason of the participation of the CFSL, and to weigh the potential prolongation of the hearing against the benefit to be derived from the participation of CFSL. In these circumstances, I have no alternative at this juncture but to dismiss the motion.

[6] Having dismissed the motion as a result of the inadequacy of the information provided in the request for Interested Party status, I have not made any determination as to whether the CFSL could make a valuable contribution to the hearing, or whether any such benefit is outweighed by the additional time and expense that will be incurred by reason of its participation.

OTTAWA,
April 9, 2009

"Signed by"
Karen Jensen
Ontario