

Canadian Human
Rights Tribunal



Tribunal canadien
des droits de la personne

Between:

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

- and -

Canadian Free Speech League

Interested party

Ruling

Member: Karen A. Jensen

Date: August 7, 2009

Citation: 2009 CHRT 23

[1] The Canadian Association for Free Expression (CAFÉ) has applied for Interested Party status in the matter of *Harry Abrams and the League for Human Rights of the B'nai Brith Canada v. Arthur Topham and RadicalPress.com*.

[2] CAFE's mandate is to work toward the maximum latitude of the freedom of speech, freedom of the press and freedom of belief provisions of s. 2(b) of the *Charter of Rights and Freedoms*. Founded in 1981, CAFE has published material in support of these goals, made representations to various levels of government and obtained intervenor or Interested Party status in a number of cases.

[3] CAFE is especially concerned about efforts to restrict the Internet, which it sees as an inexpensive and accessible medium to persons of modest means who might otherwise be excluded from some of the older more established media.

[4] CAFE has participated as an Interested Party in a number of Tribunal cases involving s. 13 of the *CHRA*.

[5] The Respondents Arthur Topham and RadicalPress.com support CAFE's motion. The Commission and the Complainants take no position on this motion.

[6] 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.

[7] In a previous ruling, the Tribunal granted interested party status to the Canadian Free Speech League (CFSL) (*Abrams and the League for Human Rights of B'nai Brith v. Arthur*

Topham and RadicalPress 2009 CHRT 12). That organization is also interested in matters touching upon freedom of expression.

[8] In his communications dated July 17, 2009, Paul Fromm, on behalf of CAFE, stated that while CFSL and CAFE “share a similar libertarian approach to Charter freedoms, CAFE has had considerably more experience as an “interested party” and agent in s. 13 Tribunals and brings this expertise to these proceedings”. In addition, CAFE has special concerns about an effort by the Complainants to expand even further the list of protected groups. It wishes to present the view that the Complainants are seeking to make criticism of a foreign government (in this case Israel) a “discriminatory” practice.

[9] Mr. Fromm indicated that CAFE wishes to make written and oral submissions as well as to cross-examine witnesses in this matter.

[10] Without making any comment on the merits or relevance of the issues raised in this motion, I am satisfied that CAFE will bring a unique perspective and body of experience to the issues in this matter; it will add significantly to the legal position of the parties.

Therefore, CAFE’s request for interested party status is granted. CAFE’s representative will have the right to cross-examine witnesses and to present oral and written submissions. CAFE should consult with the Respondent and the CFSL to ensure that there is no duplication in their efforts.

Signed by

Karen A. Jensen
Tribunal Member

Ottawa, Ontario
August 7, 2009

Canadian Human Rights Tribunal

Parties of Record

Tribunal File: T1360/9008

Style of Cause: Harry Abrams and the League for Human Rights of B’Nai Brith Canada v. Arthur Topham and RadicalPress.com

Ruling of the Tribunal Dated: August 7, 2009

Appearances:

Marvin Kurz, for the Complainants

Daniel Poulin, for the Canadian Human Rights Commission

Arthur Topham, for himself and the Respondent, RadicalPress.com

Douglas H. Christie, for the Interested Party the Canadian Free Speech League

Paul Fromm, for the Canadian Association for Free Expression