

Canadian Human  
Rights Tribunal



Tribunal canadien  
des droits de la personne

**Between:**

**Micheline Montreuil**

**Complainant**

**- and -**

**Canadian Human Rights Commission**

**Commission**

**- and -**

**Canadian Forces**

**Respondent**

**Ruling**

**Member:** Pierre Deschamps

**Date:** May 23, 2007

**Citation:** 2007 CHRT 22

[1] When the hearing resumed in the afternoon of May 17, 2007, Mr. Guy Lamb, one of the respondent's counsel, the Canadian Forces, brought to the Tribunal's attention an event which had occurred during the morning recess. This event involved an exchange which allegedly took place between Ms. Montreuil, the complainant, and one of the respondent's experts.

[2] The Tribunal deemed that the event was serious enough to warrant hearing the expert for the respondent concerned, i.e. Dr. Marylin Wilchesky.

[3] From Dr. Wilchesky's sworn testimony, it appears that sometime during the morning recess, while Dr. Wilchesky was alone at the back of the hearing room, Ms. Montreuil allegedly approached her and asked her in French *whether she was prepared to endure the same torture* (suggesting mental torture) *as the current witness* (Dr. Pierre Assalian), and also added some other remarks about her prospective testimony.

[4] Dr. Wilchesky testified that she understood from Ms. Montreuil that she was referring to the scrutiny of every document, every word of every document submitted in evidence.

[5] In her testimony, Dr. Wilchesky stated that she felt she was being pressured not to testify as an expert witness in this matter. She also stated that she sensed dread and found that the remarks made were threatening (the words were threatening), not physically but mentally. She, however, stated that when Ms. Montreuil approached her, she did not feel physically threatened.

[6] Ms. Montreuil did not deny the essence of the facts reported by Dr. Wilchesky. She did not deny using the word "torture" when she spoke to Dr. Wilchesky. She contended that, in making these remarks, she wanted to make it clear to Dr. Wilchesky that her testimony would not add anything to Dr. Assalian's testimony, given that she had signed a joint report with Dr. Dufour and Dr. Assalian.

[7] The respondent's counsel argued that Ms. Montreuil's remarks, specifically the use of the word "torture", was a form of intimidation of a person who could potentially testify in this matter.

[8] The expert witnesses whose services have been retained by a party are supposed to enlighten the Tribunal on technical or scientific points which are not of judicial knowledge. They must be given the utmost respect, as with any other witness.

[9] Nobody can upset the peace of mind of these witnesses during the proceedings. This cannot serve the interests of justice in any way. To the contrary, improper remarks can only compromise the proper administration of justice.

[10] In this case, regardless of Ms. Montreuil's exact words to Dr. Wilchesky on May 17, 2007, Dr. Wilchesky's uncontradicted testimony indicated that Ms. Montreuil used the word "torture" in reference to her prospective testimony, that Dr. Wilchesky perceived the words as a threat, and that they aroused some fear in her.

[11] The Tribunal considers that Ms. Montreuil's conduct vis-à-vis Dr. Wilchesky in the hearing room during the morning recess on May 17, 2007, was inappropriate, as were even more inappropriate the words that she was alleged to have used, namely, the use of the word "torture" in reference to Dr. Wilchesky's prospective cross-examination.

[12] It is unfortunate that counsel would perceive the cross-examination of a witness as a form of mental torture and that counsel would share this with a potential witness of the opposing party. Even more unfortunate is the fact that a witness was made to feel that her testimony was not welcome.

[13] Ms. Montreuil's intention may not have been to intimidate Dr. Wilchesky. Dr. Wilchesky nevertheless perceived the remarks made as intimidating. In this case, there was absolutely no need for Ms. Montreuil to discuss the prospective cross-examination of Dr. Wilchesky outside

the presence of the respondent's counsel. Had counsel been present, Ms. Montreuil would not have allowed herself to say such things.

[14] Accordingly, the Tribunal reiterates the order dated May 17, 2007, to the effect that, in these proceedings, Ms. Micheline Montreuil is forbidden to approach the opposing party's expert witnesses to speak to them unless the respondent's counsel are present. This order also applied to other persons who the respondent could later call as witnesses in regard to the hearing of this complaint.

*Signed by*

Pierre Deschamps  
Tribunal Member

Ottawa, Ontario  
May 8, 2007

**Canadian Human Rights Tribunal**

**Parties of Record**

**Tribunal File:** T1047/2805

**Style of Cause:** Micheline Montreuil v. Canadian Forces

**Ruling of the Tribunal Dated:** May 23, 2007

**Date and Place of Hearing:** May 23, 2007

Québec, Quebec

**Appearances:**

Micheline Montreuil, for herself

Ikram Warsame, for the Canadian Human Rights Commission

Guy Lamb and Claude Morissette, for the Respondent