

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

RICHARD WARMAN

Complainant

- and -

CANADIAN HUMAN RIGHTS COMMISSION

Commission

- and -

TOMASZ WINNICKI

Respondent

RULING

MEMBER: Karen A. Jensen 2005 CHRT 25
2005/07/11

[1] Richard Warman filed a complaint on September 7, 2003, with the Canadian Human Rights Commission (the Commission) against Tomasz Winnicki, alleging that Mr. Winnicki communicated or caused to be communicated messages which were likely to expose persons to hatred on the basis of religion. The Commission now seeks to amend the complaint to add the grounds of race, national or ethnic origin and colour. The complainant supports the amendment.

[2] In his response to the motion, Mr. Winnicki stated that Mr. Warman and the Commission are persecuting him and that the motion to include the additional grounds of the complaint constitutes further evidence of this persecution.

[3] The Tribunal has the discretion to amend a complaint to deal with additional grounds of discrimination and additional allegations provided that the substance of the original complaint is respected and that sufficient notice has been given to the respondent to enable him to properly defend himself (*Warman v. Kyburz* 2003 CHRT 6, at para 5).

[4] I am satisfied that both of these conditions have been met in the present case. The proposed amendment is linked to the substance of the original complaint since the additional grounds relate to material that was allegedly communicated by Mr. Winnicki over the Internet.

[5] Moreover, there is nothing before me to indicate that Mr. Winnicki will be prejudiced in any way in the preparation of his defense if leave to amend the complaint is granted. Document disclosure, including the material that raised allegations based on the new grounds, was provided to Mr. Winnicki in April, 2005. In addition, in May, 2005, Mr.

Winnicki received notice of the new grounds in the Joint Statement of Particulars and the Notice of Motion to amend the complaint.

[6] The hearing in this case is scheduled to begin on August 8, 2005. Therefore, Mr. Winnicki will have had three months to prepare a defense against the complaint based on the new grounds. This is sufficient notice to ensure that Mr. Winnicki is not prejudiced by the amendment.

[7] Accordingly, leave is granted to the Canadian Human Rights Commission to amend Mr. Warman's complaint to include the additional grounds of race, national or ethnic origin and colour in the s. 13(1) complaint against Mr. Tomasz Winnicki. The Commission shall have 10 days within which to serve and file an amended complaint form, together with an amended Statement of Particulars and any necessary supplementary disclosure.

"Signed by"
Karen A. Jensen

OTTAWA, Ontario
July

11,

2005

PARTIES OF RECORD

T1021/0205

TRIBUNAL FILE:

STYLE OF CAUSE:

Richard Warman v. Tomasz Winnicki

RULING OF THE TRIBUNAL DATED: July 11, 2005

APPEARANCES:

Richard Warman

On his own behalf

Monette Maillet

On behalf of the Canadian Human Rights
Commission

Ikram Warsame

Tomasz Winnicki

On his own behalf