

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:** October 25, 2007

**Citation:** 2007 CHRT 46

[1] On the morning of October 17, 2007, in the course of the examination of Dr. Christiane Dufour, the Tribunal Chairperson observed at approximately 10:35 a.m. that Ms. Montreuil, the complainant, appeared to be asleep in her chair. Gesturing with his hand, the Tribunal Chairperson indicated to the respondent's counsel to stop his examination of Dr. Dufour. Then, for 20 minutes, the Tribunal Chairperson observed Ms. Montreuil sleeping with her head on her chest. During this 20-minute period, nobody in the hearing room – i.e. the Tribunal Chairperson, the registry officer, the respondent's two counsel, the Commission's counsel and the witness – made the slightest sound, observing complete silence. It was not until about 10:55 a.m. that Ms. Montreuil finally woke up.

[2] The Tribunal Chairperson then let Ms. Montreuil know that she had slept for 20 minutes and that during all that time, the Tribunal Chairperson as well as the other persons present in the hearing room were able to observe this fact. Moreover, the audio recording that continued during this 20-minute period indicates that not a word was said during this period of time in the hearing room. The Tribunal Chairperson also told Ms. Montreuil that she would not be allowed to cross-examine Dr. Dufour, as her mental absence during Dr. Dufour's examination prevented her from adequately following her testimony and from carrying out an effective cross-examination. The Tribunal told the parties that it would give reasons for its decision.

[3] About 20 minutes after the hearing resumed, the Tribunal Chairperson noted that Ms. Montreuil was dozing. The Tribunal Chairperson once again interrupted Dr. Dufour's testimony to let Ms. Montreuil know that her conduct was unacceptable. Ms. Montreuil then explained her state of fatigue by the fact that she had not slept for almost 28 hours, having prepared documents for this proceeding, exams for her students, etc. Moreover, Ms. Montreuil stated that the witness' excessively soft voice was putting her to sleep.

[4] The Tribunal Chairperson then reminded Ms. Montreuil that the hearing room was not a dormitory and that it was unacceptable for counsel not to be attentive to the debates taking place in a hearing room and to the examination of a witness whom she is expected to cross-examine. The Tribunal Chairperson then demanded that Ms. Montreuil choose between being entirely

present before the Tribunal or excusing herself to rest outside the hearing room. Ms. Montreuil then decided to leave the hearing room.

[5] On the afternoon of October 17, the Tribunal observed that Ms. Montreuil was not present when the hearing resumed to continue Dr. Dufour's examination. Ms. Montreuil was however present when the hearing resumed after the afternoon recess.

[6] It goes without saying that in the context of a hearing, both the physical presence and the mental presence of counsel is required if counsel is called to cross-examine a witness. The fact that counsel, who is also a party, would sleep during a hearing is disrespectful to the Tribunal as well as to the witness, colleagues and the administration of justice. It is, in fact, unacceptable that the conduct of a member of the Bar be as offensive and disrespectful as Ms Montreuil's conduct.

[7] As a member of the Bar, Ms. Montreuil must be aware of the decorum that must be displayed before any Tribunal. The reasons made *ex post facto* by Ms. Montreuil to explain her conduct do not hold water. Her numerous activities cannot in any way justify a conduct as irreverent and disrespectful as hers was before the Tribunal. In the Tribunal's opinion, her conduct on the morning of October 17, 2007, compromised her ability to perform her duties as counsel, at least insofar as Dr. Dufour's cross-examination was concerned.

[8] Accordingly, considering that Ms. Montreuil did not show that she was closely following the testimony of Dr. Dufour, the respondent's witness, at the hearing on the morning of October 17, 2007, so that she could at the appropriate time proceed with a relevant and effective cross-examination but that instead, to the contrary, she was in a state which prevented her from following Dr. Dufour's testimony and comprehending its content, for all intents and purposes, the Tribunal withdraws Ms. Montreuil's right to cross-examine Dr. Dufour. Only the Commission's counsel is authorized to cross-examine Dr. Dufour.

*Signed by*

Pierre Deschamps  
Tribunal Member

Ottawa, Ontario  
October 25, 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:** October 25, 2007

#### **Appearances:**

Micheline Montreuil, for herself

Ikram Warsame, for the Canadian Human Rights Commission

Guy Lamb and Claude Morissette, for the Respondent