

IN THE MATTER OF THE HUMAN RIGHTS ACT
S.B.C. 1984, Chapter 22

AND IN THE MATTER OF THE HEARING OF A COMPLAINT

BETWEEN:

ANDREA FIELDS

COMPLAINANT

AND:

WILLIE'S RENDEZVOUS INC.

RESPONDENT

REASON FOR DECISION

J. R. Edgett	-	Member Designate
Felix Reuben	-	Appearing for the Complainant
Jacqueline L. Dorgan	-	Appearing for the Respondent

In reviewing several decisions of Human Rights Tribunals in Canada it is clear that sexual harassment of a person in respect to employment or a condition of employment constitutes discrimination based on sex and also discrimination without reasonable cause. See Sheri Zarankin v. Ian Johnstone, carrying on business as Wessex Inn (1984) 5 C.H.R.F. D/2243 (S.C. Bd.) and the decisions cited therein.

The evidence revealed that Andrea Fields, currently 20 years old, was employed as a full time waitress at "Willie's Rendezvous", from October, 1983 to April 9, 1984. "Willie's Rendezvous" is a small restaurant in Victoria, British Columbia operated by Willie's Rendezvous Inc., a company solely owned and operated by Wilhelm Ueffing.

The Particulars of Allegation were as follows:

1. During October, 1983, Andrea Fields ("Miss Fields") obtained employment as a waitress at a cafe known as "Willie's Rendezvous" and under the direct supervision of Wilhelm Ueffing ("Mr. Ueffing").
2. Commencing in November, 1983, and continuing thereafter to March, 1984:
 - (a) Mr. Ueffing on several occasions attempted to hug or kiss Miss Fields as well as pinch or grab various parts of her anatomy including her breasts;
 - (b) Mr. Ueffing directed numerous crude and offensive comments toward Miss Fields which were mainly concerned with requests to engage in sexual intercourse;
 - (c) Mr. Ueffing wrote and caused to be delivered to Miss Fields numerous notes of a crude or offensive nature including comments respecting the "sexiness" of Miss Fields' body and requests to "make love".

3. Throughout the said period of time, Miss Fields objected to Mr. Ueffing's actions through comments such as "cool it Willie" or "keep your hands to yourself" and at least on one occasion, by slapping Mr. Ueffing's hands.
4. On or about March 5, 1984, Mr. Ueffing terminated Miss Fields' employment.
5. As Miss Fields attempted to leave "Willie's Rendezvous" subsequent to her firing, Mr. Ueffing offered to re-hire her but such offer was immediately followed by several attempts on the part of Mr. Ueffing to kiss Miss Fields and grab her hands.

After considering the evidence of Ms. Fields, Mr. Ueffing and 6 witnesses called by counsel for Willie's Rendezvous Inc., I have arrived at the following conclusions regarding the 5 allegations set forth in the Particulars of Allegation:

ALLEGATION 1

This statement of fact was not disputed and was confirmed by the evidence.

ALLEGATION 2 (a)

The evidence revealed that Mr. Ueffing did hug or kiss Ms. Fields on more than one occasion. However, it was obvious from the testimony of several witnesses that it was Mr. Ueffing's nature to warmly greet both his staff and regular customers with a hug and a kiss on the cheek. I am satisfied from the evidence and demeanour of Mr. Ueffing and several witnesses that, in the circumstances of this case, such activity did not constitute sexual harassment. Apart from the testimony of Ms. Fields, there was no evidence that Mr. Ueffing ever pinched or grabbed various parts of Ms. Fields anatomy (including her breasts) or that he attempted to do so, nor was there evidence other than the testimony of Miss Fields that Miss Fields objected to the alleged conduct of Mr. Ueffing.

ALLEGATION 2 (b)

There was no evidence to substantiate any part of this allegation.

ALLEGATION 2 (c)

Six notes written by Mr. Ueffing to Miss Fields were entered as exhibits. Two of these notes could, if taken out of context, be interpreted as being crude or offensive. However, it was clear from the evidence that Mr. Ueffing was a habitual, even compulsive, writer of notes. Two ex-waitresses testified that Mr. Ueffing constantly left similar notes to them when they were employed at Willie's Rendezvous and a customer testified that she had been given notes by Mr. Ueffing. Mr. Ueffing testified that he wrote notes to everybody. After carefully reviewing the evidence and noting the demeanour of the witnesses, and particularly Mr. Ueffing, I am satisfied, in the circumstances of this case, that the two notes in question did not constitute sexual harassment.

ALLEGATION 3

There was no evidence to substantiate any part of this allegation.

ALLEGATION 4

This statement of fact was confirmed by the evidence.

ALLEGATION 5

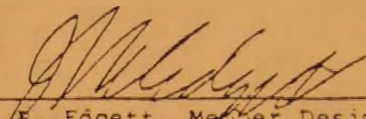
This allegation was disproven, not only by the evidence of Mr. Ueffing but by the corroborating evidence of Mr. Barry Lehna and Desiree Rudwaleit who witnessed this termination and subsequent re-hiring of Ms. Fields by Mr. Ueffing on March 5, 1984.

There was no evidence brought forth of any other incidents of alleged sexual harassment of Ms. Fields by Mr. Ueffing.

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Based on the evidence submitted and taking into account the credibility of the witnesses, I find that the complaint is not justified and hereby dismiss the complaint pursuant to section 14(1)(d)(1) of the Human Rights Act.

DATED at Victoria, British Columbia this 22nd day of November, 1964.


James R. Edgett, Member Designate
BRITISH COLUMBIA COUNCIL OF
HUMAN RIGHTS

Subject- Labor, Sexual Harassment

Rosemary Brown fonds

RARE BOOKS AND SPECIAL COLLECTIONS



110-1984

FOLDER 110-1984

PLEASE RETAIN
ORIGINAL ORDER

HUMAN RIGHTS - REASONABLE CAUSE PROVISION

QUOTE FROM MATERIALS PREPARED BY APRIL KATZ, CHIEF COMPLIANCE OFFICER OF THE HUMAN RIGHTS BRANCH IN APRIL 1983 ON "LABOUR LAW AND PRACTICE--HUMAN RIGHTS":

"THE REASONABLE CAUSE PROVISION, AS A CATCH-ALL FOR GROUP CHARACTERISTICS NOT SPECIFICALLY NAMED IN THE LEGISLATION, IS UNIQUE TO BRITISH COLUMBIA. THE PROVISION HAS ALLOWED COMPLAINTS TO GO FORWARD ON THE BASIS OF SUCH GROUP CHARACTERISTICS AS PHYSICAL OR MENTAL CONDITION, SEXUAL ORIENTATION, FAMILY STATUS, AGES UNDER 45, AGES 65 AND OVER, SEXUAL HARASSMENT, RACIAL HARASSMENT AND PREGNANCY.

"THE SINGLE LARGEST CATEGORY OF INCIDENCE OF COMPLAINT HAS BEEN IN THE AREA OF SEXUAL HARASSMENT. WHILE OTHER JURISDICTIONS HAVE BEEN PLAGUED WITH QUESTIONS OF WHETHER OR NOT SEXUAL HARASSMENT WAS INCLUDED UNDER THE DEFINITION OF SEX DISCRIMINATION, BRITISH COLUMBIA HAS PROCEEDED WITH COMPLAINTS OF SEXUAL HARASSMENT UNDER THE CATCH-ALL PROVISION OF "WITHOUT REASONABLE CAUSE". SEXUAL HARASSMENT IS THE SINGLE, LARGEST, GROWING CATEGORY OF DISCRIMINATION BOTH ALLEGED AND PROVEN." END OF QUOTE

IT SHOULD ALSO BE NOTED ON THE SUBJECT OF SEXUAL HARASSMENT CASES PURSUED UNDER THE REASONABLE CAUSE PROVISION, MS. KATZ STATES IN ANOTHER PAPER ENTITLED "HUMAN RIGHTS PRACTICES AND PROCEDURES", ALSO OF APRIL 1983, "THE REALITY IS THAT IN A SUBSTANTIATED SEXUAL HARASSMENT COMPLAINT, WE HAVE YET TO FIND A HARASSER WITHOUT A PAST."

GLORIA WILLIAMS
SEPT. 20, 1983

Sanford
Brown
Daily

Harassment

14

TIMES-COLONIST

① Labour - Gen

② Prov Sec - Workers Issues

DAILY COLONIST APR 25 1981

Short shrift awaits sex hasslers

By Don Collins

There's bad news today for that on-the-job wolf.

He (or possibly she) will have more to howl about if a new clause in a union contract gains wide acceptance.

An agreement between the B.C. Government Employees' Union and Douglas College in the Lower Mainland offers protection for employees against sexual harassment.

The unwelcome pass and suggestive invitation in the workplace have been under attack from women's groups and the labor movement. It is a prob-

lem that has become more defined with the growing union presence in the white collar sector.

The preamble to the Douglas contract clause says the union and employer recognize the "right of the employees to work in an environment free from sexual harassment, and the employer undertakes to discipline an employee engaging in sexual harassment."

The clause defines such harassment as "persistent sexual solicitation or an advance made by a person of authority who knows, or ought to know, it is unwelcome, or a reprisal by someone

in authority after a sexual advance is rejected."

The wording of the clause leaves the impression that the trap is being set only for management lechers, while the preamble takes aim at the amorous fellow employee.

A BCGEU spokesman said Friday there really is no confusion — the intent is to take disciplinary action against offenders from all levels of employment.

Under terms of the agreement, Douglas College employees may file a grievance in confidence if they have been sexually harassed.

The union is attempting to negotiate the same clause into other agreements with the Legal Services Society and the Northern Lights College in B.C.'s Peace River district.

"Employees facing sexual harassment on the job have had no recourse in the past," said BCGEU president Norm Richards.

The union, he said, considers protection against such behavior a fundamental human right.

Just how difficult it might be to prove guilt is a question that will go unanswered until the clause has been tested.

APR 29 1981

Brown

DAILY COLONIST APR 15 1982

LAB - Human Rights

Legislation little help in sexual harassment

By Stephen Hume

Sexual harassment of workers and students is a widespread problem that provincial legislation does not adequately deal with, Nola Landucci, former B.C. Human Rights Branch director, said Wednesday.

Landucci, speaking at the Learning at Noon series designed for women working downtown, said the remedy for sexual harassment on the job, if it comes at all, will come out of the union movement.

And she said the most appropriate solution for harassment of students by professors may be a counselling system in which women are equipped, with assertiveness or other training, to successfully oppose sexual coercion.

She told 40 women, two men, and a Victoria policeman and policewoman,

that sexual harassment is more power play than erotic play.

She said the B.C. Human Rights Code covers sexual harassment under its sexual discrimination sections. But the code is politically manipulated.

"It's a kind of Russian roulette in B.C. as to whether the human rights code is enforced."

Even in an open-and-shut case, the labor minister may decide not to send a complaint to a board of inquiry.

It can take two to three years before a complaint comes before a board of inquiry, and she said she doesn't know of one sexual harassment case in B.C. that has reached a board of inquiry.

Working out a conciliation between parties is usually faster. And "the really good cases, in terms of evidence, don't get to boards of inquiry because

the companies have lawyers who sign it off" (tell their corporate clients to make a cash settlement).

Landucci said all human rights legislation in Canada is "very narrow" and should be called anti-discrimination legislation.

Women should not stop complaining about sexual harassment just because laws do not adequately address the problem, she said.

"At least (governments) will become more aware of the problem."

She said women should start thinking about prevention of sexual harassment.

Women at a Regina YWCA picketed a construction site because of sexual harassment, and it stopped.

The Alliance for Sexual Coercion in Boston "has a lot of these ideas."

She said women in trades are subject to sexual harassment "as the men in trades try to keep them out."

She told of one human rights case in B.C. in which a woman craft worker at a sawmill complained of harassment. The male workers were "sticking planks up her rear to get her to quit."

The lecture was chaired by Gayle Henry, the component chairman of the B.C. Government Employees' Union administrative services.

She said the BCGEU is making its men and women members aware of the problem of sexual harassment.

The master contract does not contain language dealing with sexual harassment but the contracts of some smaller bargaining units do.

Every woman throughout her working career will be confronted at least

once with unwanted sexual advances on the job, said Henry.

Sexual harassment at work is any sexual advance that threatens a worker's job, well-being or work performance. It is usually an expression of power by someone in authority.

Sexual harassment is the most common and least discussed occupational hazard for women, she said.

It can be expressed in a number of ways, including unnecessary touching, suggestive remarks, demands for sexual favors, leering at a person's body or sexual assault.

All of these are a violation of a person's human rights, she said.

The Learning at Noon series continues every Wednesday through May 12 and is in the courtroom of the Maritime Museum in Bastion Square.

News
Release

32-5781

Arden Fields



Office of the Official Opposition

NEW DEMOCRATIC PARTY CAUCUS OF B.C.

Legislative Buildings, Victoria V8V 1X4 • Telephone 387-1448

November 26, 1984

BURNABY--Rosemary Brown (NDP MLA Burnaby-Edmonds) today said that the decision by the Human Rights Council to dismiss the complaint of sexual harassment brought by Andrea Fields against her employer, "serves notice to all British Columbians that the government is prepared to condone and encourage sexual harassment of women on the job.

"The statements of the Chairperson of the B.C. Council of Human Rights indicate that grabbing a woman's breast, hugging, kissing and otherwise molesting her against her will is perfectly acceptable to the commission and to the government.

"This is not a situation which can be tolerated, and it is my hope that this outrageous decision will be reversed," Brown said.

- 30 -

Contact: Rosemary Brown, MLA
(Burnaby-Edmonds)
387-6082

Copy of
Human Rights
Council's
decision
attached
381-2360

Burnaby News.



Office of the Official Opposition

NEW DEMOCRATIC PARTY CAUCUS OF B.C.

Legislative Buildings, Victoria V8V 1X4 • Telephone 387-1448

November 26, 1984

Subject: Gabelmann Asks For Ministerial Intervention

VICTORIA -- I have today sent the attached letter concerning a human rights complaint to Mr. Bob McClelland, Minister of Labour.

The decision of the Human Rights Council is also attached.

- 30 -

Contact: Colin Gabelmann, MLA
North Island
387-5527

OFFICE
MALL
HIGHWAY
RIVER, B C
V8W 2C3
TELEPHONE 287-3732



PLEASE ADDRESS ALL
CORRESPONDENCE TO
COLIN S. GABELMANN, M.L.A.
PARLIAMENT BUILDINGS
VICTORIA, B.C.
TELEPHONE 387-5527

November 26, 1984

The Honourable Robert H. McClelland,
Minister of Labour,
Legislative Buildings,
Victoria, British Columbia.

Dear Mr. McClelland:

Re: B. C. Council of Human Rights
Fields - Willie's Rendezvous

Mr. J. Edgett's decision in this case is appalling. It is an outrageous conclusion when viewed from - not the allegations - but Mr. Edgett's own statement of the facts. This decision cannot be allowed to stand as a precedent. If it does, no B. C. woman will be protected from workplace sexual harassment.

For the purposes of my argument in this letter I am accepting as fact only those conclusions reached by Mr. Edgett in his judgement.

The decision is so incredible as to require your immediate intervention.

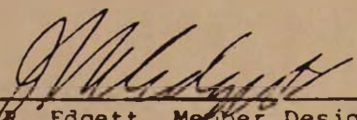
Mr. Edgett observes that "The evidence revealed that Mr. Ueffing did hug or kiss Ms. Fields on more than one occasion."

Mr. Edgett dismisses this complaint because "Mr. Ueffing's nature (was) to warmly greet (sic) both his staff and regular customers with a hug and a kiss on the cheek". Therefore, we must conclude that if you do something frequently and naturally it is all right. There are a lot of criminals who would love to use that defence. The same logic is applied by Mr. Edgett to "crude and offensive" notes. They seem to be acceptable because Mr. Ueffing wrote notes "to everybody".

It is clear that Mr. Ueffing and Mr. Edgett's views are shaped from an era when it was deemed acceptable to touch, kiss, hug or write suggestive notes to employees. In society's view today that kind of behaviour is not only not acceptable, it is illegal. Mr. Edgett's bias disqualifies him from judging this kind of complaint. His obvious bias also raises questions about the hearing itself. Did Mr. Edgett's bias prevent him from hearing and understanding properly the evidence?

Based on the evidence submitted and taking into account the credibility of the witnesses, I find that the complaint is not justified and hereby dismiss the complaint pursuant to section 14(1)(d)(i) of the Human Rights Act.

DATED at Victoria, British Columbia this 22nd day of November, 1984.



James R. Edgett, Member Designate
BRITISH COLUMBIA COUNCIL OF
HUMAN RIGHTS

News
Release



Special
Case.
Andrea Fields

Office of the Official Opposition

NEW DEMOCRATIC PARTY CAUCUS OF B.C.

Legislative Buildings, Victoria V8V 1X4 • Telephone 387-1448

November 29, 1984

Subject: Human Rights Council Decision -
Andrea Fields

Attached is a further letter to Labour Minister McClelland
from Colin Gabelmann, Opposition Spokesperson for Human Rights.

- 30 -

Contact: Colin Gabelmann, MLA
North Island
387-5527

RB

Jan 7
Marie Bulletin
phoned again. I told her
you had tried to contact her &
that I had passed on the
info. She was pleased

CONSTITUENCY OFFICE
DISCOVERY MALL
938 ISLAND HIGHWAY
CAMPBELL RIVER B C
V9W 2C3
TELEPHONE 287-3732



PLEASE ADDRESS ALL
CORRESPONDENCE TO
COLIN S. GABELMANN, M.L.A.
PARLIAMENT BUILDINGS
VICTORIA, B.C.
TELEPHONE 387-5527

November 29, 1984

The Honourable Robert H. McClelland,
Minister of Labour,
Legislative Buildings,
Victoria, British Columbia.

Dear Mr. McClelland:

Re: B. C. Council of Human Rights
Fields - Willie's Rendezvous

Further to my letter of November 26 concerning the above case, I notice in today's Times Colonist that you are rejecting my call for a review of the decision. You do so on the grounds that "critics ... do not believe that you're innocent until proven guilty", and that you think there was a fair hearing.

Please read my letter to you again. I based my request for a review on the evidence accepted as fact by Mr. Edgett in his decision, not on any allegations or presumption.

Apart from any considerations of whether all of the available evidence was heard (hopefully the courts will be able to rectify that problem) two issues arise from the decision itself. Firstly, no clear definition of what is and what is not sexual harassment can be gleaned from Mr. Edgett's decision. As you know, this first case becomes important precedent law; it is essential that it not be ambiguous.

Secondly, a failure to review this decision or to provide a full appeal procedure implies an infallibility on Mr. Edgett that is not presumed in any part of our regular court system.

Justice must be done and it must be seen to be done.

Yours sincerely,

Colin Gabelmann, MLA
North Island

CG/je



Office of the Official Opposition

NEW DEMOCRATIC PARTY CAUCUS OF B.C.

Legislative Buildings, Victoria V8V 1X4 • Telephone 387-1448

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- 30 -

Contact: Rosemary Brown, MLA
(Burnaby-Edmonds)
387-6082



Office of the Official Opposition

NEW DEMOCRATIC PARTY CAUCUS OF B.C.

Legislative Buildings, Victoria V8V 1X4 • Telephone 387-1448

21 October 1985

GABELMANN WELCOMES FIELDS DECISION

CAMPBELL RIVER --- New Democratic Party human rights debate leader Colin Gabelmann (MLA - North Island) today welcomed human rights commissioner Eric Powell's award of \$1,500 damages to Andrea Fields because of sexual harassment by her employer.

"While I am sad that Ms Fields was forced to go through the process twice, I am pleased that the courts ordered the Human Rights Council to rehear the case," Gabelmann said.

"The whole sorry mess will show the community that the sexual harassment cannot be tolerated in the in the work place or anywhere else. Hopefully others will be encouraged by this decision to complain about unwelcome sexual contact.

"I remain concerned about the limited protections provided by the B.C. Human Rights Act 1984, which restricts the abilities and facilities of the Human Rights Council to investigate complaints," Gabelmann concluded.

- 30 -

Contact:

Colin Gabelmann, MLA
(NDP - North Island)
923-5051

Renate Shearer Box ~~10.4~~
2.9

Harrassment complainant 'furious' with rights council

Andrea Fields is furious that the B.C. Council of Human Rights didn't even bother to inform her that her complaint of sexual harassment had been dismissed.

Fields, 20, said Sunday she heard about the decision on radio.

"I'm furious, really disappointed that they didn't have the decency to even tell me," the Victoria woman said.

Fields brought the complaint against her ex-employer, Wilhelm Ueffling, owner of Willie's Rendezvous, 1007 Douglas St., after she was fired March 5.

She said Ueffling tried to hug or kiss her and pinch and grab her while in his employ.

Fields testified Ueffling made "crude and offensive" remarks to her requesting sexual intercourse and sent her notes.

Ueffling was not available for comment Sunday.

A waitress at his restaurant was asked Sunday if she had experienced the same things Fields alleged.

The unidentified woman said she had not been grabbed or sent notes.

"It depends on what you call sexual harassment," she said without elaboration.

"They never" contacted me or my lawyer," said Fields, who is now working as a telephone operator.

"I feel that something happened (at the council). They gave no reasons of why it was dismissed."

The five-member council was created



■ FIELDS: they didn't even tell me

by the province in April to replace the Human Rights Branch which was chopped by the Social Credit government.

On the Fields' case, the first heard by the new council, chairman James Edgett stated there was evidence that Ueffling did kiss or hug Fields, but "it was Mr. Ueffling's manner to warmly greet both his staff and regular customers with a hug and a kiss on the cheek."

On the notes, Edgett said Ueffling "was a habitual, even compulsive, writer of notes."

Despite Fields' testimony that she objected to the advances and told Ueffling "to keep your hands to yourself," Edgett found "there was no evidence to substantiate any part of this allegation."

"I'm planning to appeal (today)," said Fields, but she is not certain of where to lodge the appeal until she talks to her lawyer.

"This man has literally put me through hell."

"I want to take this as far as I can."

"I've seen it happen to other girls and I don't want it to happen again."

Fields said when she was fired, Ueffling offered to re-hire her and immediately tried to kiss her.

The council ruled that allegation was disproven by the testimony of Ueffling and two witnesses.

In a statement in September, Edgett, a civil servant in the Labor Ministry which is responsible for the council, said women's protection against sexual harassment under the new rights code would be determined once the law is tested.

Edgett could not be reached Sunday.

TIMES-COLONIST

PAGE THREE

McClelland won't review sexual harassment case

The Canadian Press

Critics of a decision by the B.C. Human Rights Council to dismiss a complaint of sexual harassment made by a former waitress in Victoria have a "pretty skewed idea of justice," Labor Minister Bob McClelland said Wednesday.

McClelland said he will not review the case of a 20-year-old woman who complained that her former employer attempted to fondle her and wrote her notes telling her she had a sexy body.

Critics have been urging McClelland to order the council to re-hear the case, and one has asked for the council to be fired.

"I think there was a fair hearing and a decision made," McClelland said.

"I think that the critics have a pretty skewed idea of justice because if I read them correctly not only

do they not believe that you're innocent until proven guilty or you're guilty until your proven innocent, but you're guilty and you're not allowed to be proven innocent."

Andrea Fields, 20, now a secretary, complained that on several occasions her former boss, Wilhelm Ueffling — owner of Willie's Rendezvous on Douglas Street — attempted to hug and kiss her as well as pinch or grab various parts of her body, including her breasts.

Council chairman James Edgett said that apart from Fields' testimony, there was no evidence that Ueffling ever "pinched or grabbed the various parts of her anatomy including her breasts or that he attempted to do so."

In his ruling, Edgett said "it was obvious from the testimony of several witnesses that it was Mr. Ueffling's manner to warmly greet both his staff and his regular customers with a hug and a kiss on the cheek."

Woman firm won't pay transit levy

Ruth Abel is hanging tough. She got another B.C. Hydro bill week saying she owes \$7.28 for transit levy.

But instead of paying, she is butting petitions to get the levied for the 13-weeks last so the buses were off the roads by of a labor dispute.

"I could pay it, but I'm not to," she said Wednesday.

"They'll have to take it out hide."

Abel, of 2639 Fifth St., has to pay two \$3.40 levies on the 1 and October bills. A 48-cent or charge puts the total at \$7.28.

Sexual harassment dismissal condemned

VANCOUVER (CP) — The B.C. Council of Human Rights has dismissed the case of a Victoria woman who filed a complaint of sexual harassment against her employer.

The decision, the fledgling council's first, was condemned by a former human rights branch officer, who said it "sets human rights back 50 years."

The officer, Alicia Lawrence, said the decision "dilutes human rights protections."

According to the official report of the decision, waitress Andrea Fields, 20, complained that on several occasions her boss, Wilhelm Ueffling, owner of Willie's Rendezvous, 1007 Douglas St. in Victoria, attempted to hug or kiss her, as well as pinch or grab various parts of her body, including her breasts.

The decision, written by council chairman Jim Edgett, states that evidence revealed Ueffling did hug or kiss Fields on more than one occasion.

"However, it was obvious from the testimony of several witnesses that it was Mr. Ueffling's manner to warmly greet both his staff and regular customers with a hug and a kiss on the cheek."

Fields also testified Ueffling made numerous "crude and offensive" comments to her, mainly requesting sexual intercourse, and wrote her numerous notes commenting on the "sexiness" of her body and suggesting they "make love."

Six notes from Ueffling to Fields were entered as evidence and, the report states, "two of these notes

could, if taken out of context, be interpreted as being crude or offensive."

"However," Edgett wrote, "it was clear from the evidence that Mr. Ueffling was a habitual, even compulsive, writer of notes."

Fields testified that she objected to Ueffling's attentions with such comments as "cool it, Willie," or "keep your hands to yourself," and that at least once she had slapped his hands.

Edgett found "there was no evidence to substantiate any part of this allegation."

Ueffling fired Fields March 5. She testified that as she left the restaurant he offered to re-hire her, but immediately attempted to kiss her and grab her hands.

This allegation was disproven, the report states, by

Ueffling's testimony and that of two witnesses to the termination and re-hiring.

"Based on the evidence submitted and taking into account the credibility of the witnesses," Edgett found the complaint unjustified and dismissed the case.

Reggie Newkirk, western regional director for the Canadian Human Rights Commission, was pleased that the B.C. council decisions are going to be made public but was not pleased with the dismissal.

The new five-member council was formed last April after the Social Credit government annulled the old Human Rights Act, disbanded the former human rights commission and fired the staff of the human rights branch.

Human rights chief okays office kisses

By Stephen Hume
Legislature staff

It's okay for men and women to show warmth and touch each other in the office, says the man in charge of human rights in B.C.

Jim Edgett, who last week dismissed an allegation of sexual harassment against a Victoria restaurant owner, said Monday there is a difference between bosses who sexually harass their employees and bosses who hug and kiss them as a natural outpouring of affection.

Edgett was commenting on the case of Andrea Fields, 20, who complained that on several occasions her boss, Wilhelm Ueffling, owner of Willie's Rendezvous, 1007 Douglas St., attempted to hug or kiss her, as well as pinch or grab various parts of her body, including her breasts.

"Mr. Ueffling hugged people and may have given them a kiss on the cheek. Customers. Waitresses. The other waitresses testified to this and took no offence," said Edgett, chairman of the B.C. Council of Human Rights.

"That was just the way he was. So what do we do in our society? Do we prevent people from having any warmth and contact at all? That's what I think some people think the way things should be. Pretty soon we won't dare to talk to anybody. We might say the wrong thing or they may take it to be the wrong thing."

Ueffling's lawyer, Jacqueline Dorgan, a member of the feminist Victoria Status of Women Action Group, said the two-day hearing this month was full, open and fair.

(She said: "I don't think there are many people in our society who say that everyone who is charged is, as a result of the charge, guilty. And yet it would almost appear in these circumstances that the laying of the complaint is enough for some people to expect a finding in favor of the complainant.")

Edgett said he made his decision after carefully reviewing all the evidence and the credibility of the witnesses.

He said Ueffling wrote Fields a note that said, in effect, she had a sexy body. Edgett said the note "could possibly be considered to be offensive." However, it did not by itself constitute sexual harassment.

It was alleged that other notes from Ueffling asked Fields to "make love."

Said Edgett: "He wrote notes to everybody, all the time. Other waitresses testified he had sent them a considerable number of notes. They were not offended by any of it."

Why did Fields complain?

"There was no evidence as to why she was making the complaint. I may have my ideas about it, but I have nothing to go on."

Edgett has been under fire from human rights activists for his decision, the first by the council's first

wants Labor Minister Bob McClelland to reopen the case, and the national action committee of the Status of Women says it is disturbed by the council's decision and will issue a statement next week.

Rosemary Brown (NDP-Burnaby-Edmonds), called Monday for the resignation of the five-member council, which was formed last April after the Social Credit government repealed the old Human Rights Code, disbanded the former human rights commission and fired most of the staff of the human rights branch.

In Vancouver, McClelland said he has no intention of firing the council.

Said Brown: "It's a benchmark case. If it is allowed to go unchallenged it will take women back 25 years."

Brown said she had not read the decision, but as she understood the case, there was no doubt in her mind that Fields' complaint was justified.

She said Edgett's statements "indicate that grabbing a woman's breast, hugging, kissing and otherwise molesting her against her will is perfectly acceptable to the government."

Edgett said Brown's comments do not pertain to the facts of the case.

"Apart from the testimony of Miss Fields, there was no evidence that Mr. Ueffling ever pinched or grabbed various parts of Miss Fields' anatomy or her breasts or attempted to do so," said Edgett.

"Nor was there evidence, either than the testimony of Miss Fields, that Miss Fields objected to the alleged conduct."

At the human rights hearing, both Fields and Ueffling were cross-examined. Fields, who was represented by Victoria lawyer Felix Reuben, was "not too credible. The credibility was all on the other side," said Edgett.

Edgett said Ueffling had six supporting witnesses; Fields had none.

He said Fields was supposed to have a witness, but the witness ended up testifying on behalf of Ueffling.

There is no appeal to the council, but Fields can appeal in court.

"If they think I've erred in law or I've been unjust they can take that up. She could go by way of judicial review. Under the Judicial Review Act she can go to court and say she didn't get a fair shake."

Edgett said he is upset that Fields found out about the council's decision on the radio and he conveyed the council's apologies.

"The decision was sent out to the parties and to their counsels Thursday and it was sent to the other human rights councils. It was not sent to the press or anybody else."

He said the council will change the way it releases decisions. From now on, the respondent, the complainant and their lawyers will be notified before anyone else. The press will not be notified of decisions unless they

600 25 1984 time Colonist

Waitress to push for rights

Andrea Fields vowed Tuesday to prove she was sexually harassed by her boss.

"I don't feel women have legal rights in B.C. in this area anymore," Fields said in an interview.

The new B.C. Human Rights Council last week released its first decision on sexual harassment and found Fields's complaint of harassment against her boss unsubstantiated.

Fields, 20, who was a waitress at Willie's Rendezvous, 1007 Douglas St., complained restaurant owner Wilhelm Ueffing hugged and kissed her and touched her breasts.

She also testified Ueffing sent her sexually harassing notes.

THE HUMAN rights council decided the notes "could possibly be considered offensive" but did not constitute sexual harassment.

One note said: "Darling Andrea looking forward being (sic) your sexy body again."

Another said: "Leta (sic) make love!"

Other notes had the symbol of an eye, a heart and the letter U.

Fields said she received notes almost every day she worked.

She worked for Ueffing from October 1983 to April and filed the complaint in March. She said she stayed on the job at the urging of the council to speed up her complaint.

Fields said she was angry that the council wanted more proof of harassment.

"WHAT DO THEY need: a picture of the boss doing something? Of course, he is not going to do it in front of an audience."

"He was my boss. What are you going to say to your boss? It was more like a dodge game around him. The job was nice, but I didn't like working around him. I felt threatened. I didn't know if I would be working the next day."

She said council chairman Jim Edgett refused to allow her to call special witnesses at the end of the hearing to support her allegations.

"If he wanted the whole story, why didn't he let me bring the witnesses?"

Fields said she has been a waitress since she was 14. Now she works at a telephone exchange.

"I CAN'T afford to put the thousands of dollars into this for another lawyer," she said, "but I'm going to do it anyway."

"Girls in my situation aren't going to probably do anything. They are not going to have the evidence of the notes I had."

"How many times has an employer come to a female employee and set out his intentions in writing."

"He did everything in the back or behind the counter. Of course there were no witnesses."

"I'm happy doing my job. I just don't need someone doing this."

"I'm going to see this to the end. I know I'm right."

Times-Colonist

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Wednesday, November 28, 1984

Worrying messages from the Fields case

What conclusions can be drawn from the experience of Andrea Fields, the young woman who complained to the B.C. Council of Human Rights that she was sexually harassed by her employer while working as a waitress in a small Victoria restaurant?

Several — and all of them disturbing.

Both the official decision handed down by Jim Edgett, the council chairman, and his comments in a subsequent newspaper interview, suggest that any female victim of sexual discrimination will have a tough job convincing him that anything untoward happened.

Consider the matter of corroboration, for example. If we understand Edgett correctly, witnesses to harassment are not only desirable, but essential. Andrea Fields had complained that her boss, Wilhelm Ueffing, tried several times to hug, kiss or fondle her. Edgett's written decision dismissing the complaint noted that apart from her own evidence, no other testimony was produced.

That comment reveals a fundamental misunderstanding of the form and nature of sexual discrimination in the workplace, which is covert rather than overt. Most such incidents occur when only two people are present — the female victim and the male supervisor or employer — so what witnesses can a complainant produce? Even if other employees did observe such behavior, in today's job market would they be prepared to jeopardize their own employment by testifying on behalf of a fellow-worker?

Another specific complaint from Andrea Fields was that her boss had written her numerous crude and offensive notes, with comments regarding the "sexiness" of her body and requests to "make love."

In his decision, Edgett conceded that two of the six notes entered as exhibits could be interpreted as crude or offensive if they were "taken out of context." But he then stressed that evidence showed Ueffing was a "habitual, even compulsive writer of notes," the recipients including other staff members and even a customer. "Mr. Ueffing testified that he wrote notes to everybody."

Some questions: A written suggestion that an employer engage in sex with an employee is a fairly unambiguous one, is it not? In context or out of context, explicit or implicit, is the essential offensiveness altered to any significant degree? Furthermore, are we to deduce from Edgett's comments that an employer can write an employee as many crude notes as he likes, provided he also distributes notes to all and sundry?

In the *Times-Colonist* interview, the council chairman observes that there is a difference between bosses who sexually harass their employees and those who hug and kiss them as a natural outpouring of affection.

What he fails to point out is that, whether it is "natural" or not, many women object strenuously to being on the receiving end of such spontaneous warmth; that they want to be touched, kissed or hugged only at their invitation or with their consent.

Any B.C. employer with a penchant for kissing or fondling his female employees now seems to be armed with a credible defence against allegations of sexual harassment: "Gee, that's just the way I am — a natural, open, affectionate kind of guy."

Sun
Nov 28/81

All too familiar

If the provincial government was banking on the Human Rights Council to boost the credibility of its controversial human rights legislation once the council started hearing cases, it must count the council's opening case a public relations disaster.

The decision by council chairman Jim Edgett dismissing a woman's complaint of sexual harassment by a male employer was less than satisfactory in a number of ways, but most of all it demonstrated the inadequacy of the legislation under which the council must operate.

For its own sake it was unfortunate that the council's first case concerned a matter in which the evidence was not clear-cut, being basically a matter of one person's word against another's. Mr. Edgett had to make an arbitrary decision, which would have proved unpopular whichever way he had called it.

What makes it more unsatisfactory, however, is that the Human Rights Act makes no provision for an appeal. The result would have been equally frustrating if it had been decided in favor of the complainant.

There is, it's true, an avenue of appeal to the courts under the Judicial Procedure Review Act, but that provides relief only from a miscarriage of justice resulting from an "error of law" or some technical irregularity. In this case the government's human rights law made Mr. Edgett the sole judge of the facts, and it does not contemplate the possibility that he or anyone else on the council might make a mistake on that score.

Should an appeal be launched on a point of law, further frustration might arise from the lack of a full record of the case. Mr. Edgett, apparently concerned with the cost, decided to dispense with a transcript of the hearing.

Under the previous human rights legislation, the complaint would have been thoroughly investigated by the old human rights branch before reaching the stage of a hearing. Perhaps in this case such an investigation would have provided more conclusive evidence; we'll never know, because there is no more human rights branch to assist the new council.

But on a couple of points the evidence was not in dispute. One was that the employer, a restaurant operator, bestowed unwanted affection upon the complainant, a waitress, in the form of hugs and kisses. Another was that he sent her notes that could, according to Mr. Edgett, be interpreted as crude or offensive "if taken out of context."

In other words, it all came down to one man's definition of what constitutes sexual harassment — a definition that seems to say it is acceptable for any employer to behave in such a fashion as long as he does not realize his behavior is offensive.

What a coincidence it was that, on the very day the woman learned of the dismissal of her complaint (through a press leak, but that's another story), a French court decided in a similar case that a restaurateur who pinched a waitress's bottom did not go "beyond what can be allowed by a certain familiarity arising from a daily working relationship."

54W A-4 NOV 29-84

Minister sees need to amplify rights council decisions

Labor Minister Bob McClelland agreed, when I asked him about it yesterday, that the decision of the Human Rights Council after hearing a complaint in which sexual harassment was alleged did not exactly fulfil the government's objectives for "education" in human rights.

Mr. McClelland, who oversees the council under legislation passed in the spring, doesn't dispute the finding. But he thinks some of the sort of skepticism that greeted the council's first major ruling could be avoided if decisions are published in greater detail and their effects clarified.

Last week the council rejected a complaint of sexual harassment made against a Victoria restaurateur. Rejection of the complaint has been wildly and regrettably interpreted as an endorsement of sexual harassment.

Colin Gabelmann, the New Democratic Party's labor critic, points out that the decision in fact seems to condemn sexual harassment, though in just a few lines.

During debate in the legislature about the new Human Rights Code, the Opposition worried repeatedly that the law provided no basis for complaints about sexual harassment. But

the ruling says that the council considers sexual harassment to be forbidden under at least two sections of the code.

Mr. Gabelmann agrees that that aspect of the decision represents some progress, but asks "Why aren't they trumpeting it?" Exactly.

It is not enough for the council to rule on the specifics of a case like last week's. It must recognize the ruling will set precedents in other cases — and in the workplace.

But the council's decision provides little in the way of direction or guidelines. The written order is a sparse 4½-page summary of the two-day hearing, containing little of the evidence, no testimony from the several witnesses, and no indication of what arguments were made by either side.

One has to take it or leave it, unless one attended the hearing — and unfortunately it does not seem to have been covered by any media. That one should have to take it or leave it is asking a lot, considering the controversy surrounding the council and that the case ended with its very first ruling.

I raised the question of form with Attorney-General Brian Smith in an interview this

VAUGHN PALMER IN VICTORIA

week, and he agreed there are good reasons why decisions of the Human Rights Council should be detailed and publicized. He thinks it is a matter of justice being seen to be done.

Education is the other reason for clarifying human rights decisions and putting them in context. Mr. McClelland has said: "The B.C. government believes an education process is the most important and effective way of providing long-term and lasting protection against discrimination and intolerance."

He planned to meet today with a representative of the council. I expect he will outline how future rulings should provide details of key testimony, the reasons for the decision, and some idea of what the finding means to human rights in B.C.

Mr. Gabelmann, who is one of the few critics to keep his cool in reacting to this first ruling, has more fundamental objections besides the form of the decision. He thinks the ruling ought to be appealed, not least because, he says, the evidence got a poor hearing.

But he agrees that a brief that spelled out the evidence more clearly and stated that sexual harassment is not acceptable on the job would have eliminated "some" of his party's objections.

Another person who wishes the decision had been better represented is Jacqueline Dorgan, the lawyer who defended the man accused in the complaint.

It may surprise some people that Ms. Dorgan considers herself a feminist. She's a paid-up member of the Victoria Status of Women. She does not think her victory undermines one of the principal concerns of the women's movement.

She rejects the sniggering implication that the decision declares open season on office kisses: "This decision does not say that it is all right to hug and kiss. It says that the allegations of sexual harassment were unproven in this case."

She agrees that sexual harassment is a very real problem in our society: "There is no question sexual harassment occurs in offices every day. As I said in my address to the council, some of us are more worried and concerned about the problem because we are more vulnerable than others."

She rejects the claim made by the complainant and her lawyer that the hearing was unfair because key evidence was excluded. She says the question of additional witnesses was raised only after both sides had completed their cases, and then only obliquely. She considers the hearing to have been "full, open, and fair."

But she's worried about how the decision is being interpreted in some quarters. "You cannot have people out there on the street or in offices saying [to women] I can do what I want with you, or I can hug and kiss you at least. You can't do that. The council has to make that clear."

She points out that one of the people suffering because of adverse reaction to the council's decision is her client, who continues to be accused although he was found not guilty. She worries he will be made to carry a burden by those who don't like the council, the government, or the decision:

"He was believed at the council. It found he is not some horrible beast. He won. But now he's losing. He [may be] faced with thousands of dollars of legal fees if this case is appealed over the credibility of this council." □

Sex bias ruling hit by ex-rights officer

By NANCY KNICKERBOCKER

The B.C. Council of Human Rights has dismissed the case of a Victoria woman who filed a complaint of sexual harassment against her employer.

The decision, the fledgling council's first on a case that has gone to a hearing, was condemned by a former human rights branch officer, who said it "sets human rights back 50 years."

The officer, Alicia Lawrence, said the decision "dilutes human rights protections."

According to the official report of the decision, waitress Andrea Fields, 20, complained that on several occasions her boss, Wilhelm Ueffling, owner of Willie's Rendezvous in Victoria, attempted to hug or kiss her, as well as pinch or grab various parts of her body, including her breasts.

The decision, written by council chairman Jim Edgett, states that evidence revealed Ueffling did hug or kiss Fields on more than one occasion.

"However, it was obvious from the testimony of several witnesses that it was Mr. Ueffling's manner to warmly greet both his staff and regular customers with a hug and a kiss on the cheek."

Fields also testified Ueffling made numerous "crude and offensive" comments to her, mainly requesting sexual intercourse, and wrote her numerous notes commenting on the "sexiness" of her body and suggesting they "make love."

Six notes from Ueffling to Fields were entered as evidence and, the report states, "two of these notes could, if taken out of context, be interpreted as being crude or offensive."

"However," Edgett wrote, "it was clear from the evidence that Mr. Ueffling was a habitual, even compulsive, writer of notes."

Fields testified that she objected to Ueffling's attentions with such comments as "cool it, Willie," or "keep your hands to yourself," and that at least once she had slapped his hands.

Edgett found "there was no evidence to substantiate any part of this allegation."

Ueffling fired Fields March 5. She testified that as she left the restaurant he offered to re-hire her, but immediately attempted to kiss her and grab her hands.

This allegation was disproven, the report states, by Ueffling's testimony and that of two witnesses to the termination and re-hiring.

"Based on the evidence submitted and taking into account the credibility of the witnesses," Edgett found the complaint unjustified and dismissed the case.

Reggie Newkirk, western regional director for the Canadian Human Rights Commission, was pleased that the B.C. council decisions are going to be made public but was not pleased with the dismissal.

Newkirk said that "when the behavior objected to is repetitive, when it involves physical contact and verbal language of an overt or cov-

ertly sexual nature, when the woman has expressed her objections or when a reasonable person would have known it was objectionable behavior, when it is acknowledged by the respondent — then that is the legal definition of sexual harassment."

The new five-member council was formed under Bill 11 last April, after the Social Credit government annulled the old Human Rights Act, disbanded the former human rights commission and fired the staff of the human rights branch.

These moves sparked widespread criticism in B.C. and across the country as experts predicted protections for British Columbians would be diminished under the new law.

Rights ruling angers woman

By PETER TRASK

Former waitress Angela Fields was doubly furious when she heard the outcome of a sexual harassment complaint she had filed with the B.C. Council of Human Rights against her former employer.

"I was furious that they had dismissed my complaint of sexual harassment and I was equally furious that I only found out about the decision through the radio," she said Sunday.

"I had been on pins and needles for the past two weeks waiting for the result to be announced.

"Surely they could have had the good manners to let me know the result personally or through my lawyer instead of me finding out through a report on the radio," she said.

Fields, 20, now a secretary, complained that on several occasions her former employer, Wilhelm Ueffing — owner of Willie's Rendezvous in Victoria — attempted to hug and kiss her as well as pinch or grab various parts of her body, including her breasts.

It was the first such case to go to a hearing of the fledgling council.

The decision, written by council chairman Jim Edgett, stated that evidence showed Ueffing did hug or kiss Fields on more than one occasion.

"However," Edgett said, "It was obvious from the testimony of several witnesses that it was Mr. Ueffing's manner to warmly greet both his staff and his regular customers with a hug and a kiss on the cheek."

Ueffing has been unavailable for comment on the result of the hearing.

Fields said the council chairman had chosen to believe the testimony of six of Ueffing's friends rather than her evidence.

"But they weren't present when these things were going on," she said.

She also said Edgett had ignored several notes Ueffing had written saying she had a "sexy body."

Fields said she intends to pursue every legal avenue to appeal the decision of the council.

"I am going to do everything in my power to get the situation rectified.

"I know I am very right in my position. I know he touched me and grabbed me and made many crude and offensive remarks."

Former human rights branch officer Alicia Lawrence has said the council's decision "sets human rights back 50 years."

The new five-member council was formed under Bill 11 last April after the provincial government scrapped the old Human Rights Act, disbanded the former human rights commission and fired the staff of the human rights branch.

These moves sparked widespread criticism in B.C. and across the country as experts predicted protections for British Columbians would vanish under the new law.

Harassment complainant to fight ruling

By NANCY KNICKERBOCKER
and PETER COMPARELLI

She's not sure where she's going to get the money to pay her legal fees, but Andrea Fields says she's going to fight the B.C. Council of Human Rights decision dismissing her complaint of sexual harassment against her former employer.

"I feel very strongly about this," she said in an interview Monday. "I know a lot of other women are in the same situation and have had to put up with the same thing, so I'm doing this for me and for all those other women."

Fields got lots of moral support Monday from opposition New Democrats, who reacted angrily to last Friday's decision by council chairman Jim Edgett.

NDP labor critic Colin Gabelmann (North Island) wrote to Labor Minister Bob McClelland, the minister responsible for human rights, calling the ruling "appalling" and "incredible."

Rosemary Brown (NDP—Burnaby-Edmonds) said the decision deserves notice to all British Columbians that the government is prepared to condone and encourage sex-

ual harassment of women on the job."

At the hearing, Fields testified that when she worked as a waitress at a Victoria restaurant called Willie's Rendezvous, her former boss, Wilhelm Ueffing, frequently attempted to pinch or grab her, made crude and offensive remarks to her, and wrote her notes telling her she had a sexy body and suggesting they have sexual intercourse.

Gabelmann noted that Edgett dismissed the complaint in part because Ueffing frequently greeted staff and customers with a hug and a kiss on the cheek.

"Therefore, we must conclude that if you do something frequently and naturally it is all right," he said. "There are a lot of criminals who would love to use that defence."

The Sun tried several times Monday to reach Ueffing at his restaurant but he did not return calls.

Gabelmann also said it is clear that Edgett's and Ueffing's views were shaped in another era. "In society's view today that kind of behavior is ... unacceptable," he said.

In an interview, council chairman Edgett said that "a lot of people seem to have come to their opinions without hearing the arguments or the evidence. I, at least, based my decision on something."

In his ruling Edgett wrote that "apart from the testimony of Ms. Fields, there was no evidence" of a number of her allegations.

Gabelmann's letter asks McClelland to intervene in two ways — to ask the full five-member council to reconsider the case so it does not become a precedent, and to amend the Human Rights Act to provide an appeal procedure.

At present there is no avenue of appeal in the act, said Murray Rankin, a University of Victoria law professor who sat on a board of inquiry into an earlier sexual harassment case.

He explained that although the old Human Rights Code allowed for appeal to the Supreme Court of B.C. and, failing that, to the Appeal Court, the new code does not. Fields' only recourse would be to have a judicial review of the decision, he said.



—John Yaryshyn photo

ANDREA FIELDS

... she's going to fight ruling

Waitress's allegations were substantially unproven

SUN Nov 27/84

VAUGHN PALMER
IN VICTORIA

A man hugs and kisses a woman. Among relatives, lovers, old friends it is a harmless act. But if the man is the woman's employer it is... sexual harassment?

Not necessarily, according to the head of B.C.'s new Human Rights Council. "Outrageous!" reply the council's critics.

The fledgling human rights authority could not have picked a more unfortunate case for its public debut than last week's opinion on sexual harassment.

Nor could the rejection of the complaint have been made public in a worse way. The opinion was sent to the parties without comment, and subsequently leaked to the press, though not by the council itself.

As a result, most British Columbians will learn of the decision as part of a storm of criticism. That ill serves the council's mandate to "educate" the public about what constitutes a violation of human rights.

Having said that, I will also say that the reaction to the council's decision is appalling. It shows some human rights activists at their worst: disregarding someone else's rights for political purposes.

The important thing about this case is that the allegation of sexual harassment was substantially unproven. The only evidence to support most of the complaint was provided by the complainant herself, and her testimony was contradicted by other witnesses.

The complaint was brought by Andrea Fields, a former waitress at Willie's Rendezvous in Victoria, against the restaurant's owner-manager, Wilhelm Ueffing.

Ms. Fields made six serious allegations: that Mr. Ueffing had tried to hug or kiss her on several occasions, that he had tried to grab various parts of her body, that he directed crude and offensive comments at her, that he wrote her suggestive notes, and that he ignored her objections to his behavior. She also claimed that on the day he fired her, he offered to rehire her but immediately followed the offer with attempts to kiss her and grab her hands.

The six allegations, if proven, would likely constitute an offence under the Human Rights Code. The decision by the council's chairman, Jim Edgett, acknowledges that "sexual harassment of a person in respect to employment or a condition of employment

constitutes discrimination based on sex and... without reasonable cause." But he found that collectively the allegations were not proven.

He noted that Ms. Fields's version of what happened the day she was fired was contradicted, not only by Mr. Ueffing, but also by two other people who saw what happened.

Also, he found no evidence apart from Ms. Fields's testimony to support the allegations that Mr. Ueffing tried to grab parts of her body, that he made suggestive verbal overtures, and that she had complained about his behavior.

Mr. Edgett did agree that Mr. Ueffing hugged and kissed Ms. Fields on more than one occasion, and that two of his notes could, "if taken out of context," be interpreted as crude or offensive.

But in addition to Ms. Fields's testimony, he had to consider the testimony of two former waitresses and one customer regarding

Mr. Ueffing's notes, and consider the testimony of several witnesses in the case of the hugs and kisses.

They led him to believe that when others got notes from Mr. Ueffing, or when they were hugged and kissed by him, they were not offended. Mr. Edgett found that "after carefully reviewing the evidence and noting the demeanor of the witnesses, and particularly Mr. Ueffing, I am satisfied, in the circumstances of this case, that the two notes in question did not constitute sexual harassment." He used similar language in dismissing the complaint about hugs and kisses.

So his decision seems to have been based on the lack of corroboration, the opposing testimony of several witnesses, and the demeanor of those appearing before him. Assuming the evidence was represented fairly, that is not an unreasonable basis for judgment.

But some critics disagree. New Democratic Party MLA Rosemary Brown says the decision "serves notice" that "the government is prepared to condone and encourage sexual harassment of women on the job."

The decision does nothing of the kind. It

only says that it is not enough for people to allege discrimination. They must also prove it.

Ms. Brown also complains that Mr. Edgett's statements "indicate that grabbing a woman's breast, hugging, kissing, and otherwise molesting her against her will is perfectly acceptable to the commission and to the government."

Ms. Brown would have been a valuable witness at the hearing, since she seems to know more about the case than even the complainant. Perhaps she should be subpoenaed if the case is appealed.

The council's credibility demands that there should be a fair review of the decision. But until such time, I suggest that what is at stake is far more important than the council's credibility or the government's policies, than even the issue of sexual harassment.

It is the principle — essential to any modicum of civil rights — that Mr. Ueffing is innocent until proven guilty.

Ms. Brown, who is her party's critic for the attorney-general's ministry, should respect that. And so should other self-styled defenders of human rights. □

Minister supports rights council on sex harassment case ruling

Labor Minister Bob McClelland said Wednesday people complaining about the B.C. Human Rights Council's decision in the Andrea Fields sexual harassment case have a "pretty skewed idea of justice," and he will not review the case.

"I think there was a fair hearing and a decision made," he told reporters as he entered the weekly cabinet meeting.

"I think that the critics have a pretty skewed idea of justice because, if I read them correctly, not only do they not believe that you're innocent until proven guilty or you're guilty until you're proven innocent, but you're guilty and you're not allowed to be proven innocent.

"It's a very strange way to have justice."

McClelland said he has not involved himself in the case and does not intend to do so.

Council chairman Jim Edgett dismissed Fields' complaint of sexual harassment against her former employer, Victoria restaurateur Wilhelm Ueffing, saying what she saw as harassment was only Ueffing's normal warm manner of greeting patrons and staff.

At the hearing Fields, 20, testified that Ueffing, owner of Willie's Ren-



ANDREA FIELDS
... complaint dismissed

dezvous in Victoria, frequently attempted to grab or pinch her anatomy, including her breasts, and that he made numerous crude and offensive remarks to her. Several notes from Ueffing to Fields commenting on her sexiness and suggesting they

"make love" were also entered as evidence.

Fields complained on a television program Tuesday that she had been prevented from calling two other women who would support her case. On the same broadcast Edgett denied that any such request was ever made.

The two women, former waitress Rochelle Errett and her mother, Kay Anderson, said they were angry when they saw the program.

"He was right there in the room when we came in and they told us we couldn't testify, so I don't know where he gets off saying he didn't know about Andrea's witnesses," Errett said.

In an interview Wednesday, Edgett said he refused to allow Errett and Anderson to testify after Fields' lawyer had closed his case because "that is against all the rules of evidence."

"I was quite prepared to allow rebuttal — that is the rebutting of something that has come up which is quite new — but this was not rebuttal. It was an attempt to re-open the whole case," he said.

Anderson said she and her daughter had waited from 9 a.m. to 12:45 to testify.

"When they called us up to the

room and then said we couldn't speak, I just couldn't believe it."

Both Edgett and Jacqueline Dorgan, counsel for Ueffing, said Wednesday there had been no mention of the witnesses until the case for both sides had been completed.

They agreed that Edgett heard Fields' case first and that Edgett had asked her and her counsel, Felix Reuben, if they had more witnesses.

They said their case was concluded.

Rueben said he had not called Errett and Anderson to testify earlier because he and Fields had been unable to contact them.

Errett said: "I was staying at my grandmother's looking after her house, and my mom's telephone was out of order, so Andrea had no way of getting in touch with us until the hearing had already started."

Dorgan, who called six witnesses in Ueffing's defence, objected to Reuben's request to call the two witnesses, saying this broke the rules of evidence, and Edgett agreed.

"I am satisfied they had a fair crack," Edgett said. "They had at least a month to prepare the case from when the date was announced and should have called their evidence at the right time."

GOLLY... IF THE
HUMAN RIGHTS COUNCIL
UPSETS YOU SO MUCH
WE'LL JUST SCRAP IT



KIEFER 1984
THE PROVINCE
NW 30/84

Rights ruling miffs women

Nov 30/84
SUN

Representatives of Ontario women's groups have written to federal Justice Minister John Crosbie to say they are "appalled" by the decision of the British Columbia Council of Human Rights to dismiss a Victoria woman's complaint of sexual harassment against her former employer.

Members of the Ontario Status of Women group, the Toronto YWCA, and a feminist group called the Pink Ribbon Committee, as well as human rights advocate Kathleen Ruff also wrote a tongue-in-cheek letter to council chairman Jim Edgett.



KATHLEEN RUFF

They congratulated him on "winning an award of merit for your outstanding contribution to advancing the cause of sexual harassment."

"This decision has caused a big splash in the rest of the country," Shelagh Day, former Vancouver equal opportunities officer, said in an interview

Thursday.

The Ontario women were reacting to the case of former waitress Andrea Fields, 20, who complained that her former boss, Wilhelm Ueffing, owner of Willie's Rendezvous, frequently attempted to grab or pinch her, made offensive and crude remarks to her, and wrote several notes to her suggesting sexual intercourse.

Edgett ruled that what Fields called sexual harassment was only Ueffing's manner of warmly greeting staff and customers.

In their letter, the women also urged Crosbie "to require the government of B.C. to provide proper human rights protection to women and other groups in B.C. as a condition of receiving federal funds."

Meanwhile, a trust fund has been set up by the Vancouver Island Human Rights Coalition to help Fields take her case to court.

Trust fund set up in harassment case

*Times/
Colonist
Nov 30 '84*

A trust fund has been set up to help Andrea Fields carry her sexual harassment case to court.

The B.C. Council of Human Rights dismissed Fields' harassment complaint against Wilhelm Ueffing, owner of Willie's Rendezvous on Douglas Street.

"The important thing is that Andrea has had the courage and strength to speak out on this issue by herself," said Mark Tatchell, spokesman for the Vancouver Island Human Rights Coalition which is organizing the fund.

"Not many 20-year-olds would."

Tatchell said the fund's target is "as much as possible — two or three thousand dollars would be ideal."

"Ultimately, we'd like to continue the fund to help other cases in the future."

Tatchell said some unions would likely chip in.

"We're expecting to get funds today — they're passing the hat at the B.C. Federation of Labor convention in Vancouver."

Fields has retained a new lawyer, Dulcie McCallum, who says she plans

to advise her client either today or Monday about continuing the case.

"What I'm doing is to prepare an opinion to see if she has grounds for judicial review," McCallum said.

If a judge reviews the case, she said, it could be sent back to the council for a second hearing.

Fields will not necessarily proceed even if she's advised she has grounds, McCallum said.

"Andrea may not want to go through it again," she said.

McCallum said legal expenses for the judicial review wouldn't be high.

"I don't imagine it'll be that expensive if it just goes to one appeal," she said.

But, she noted, the other side could appeal further.

"It could go all the way to the Supreme Court of Canada."

"It could be endless, in which case it would cost thousands of dollars."

McCallum said she would like public reaction to Fields' case to ease, adding she feels it hurts both sides.

"I hope it just calms down and becomes an ordinary case."