

various other benefits in addition to present salary as a result of pregnancy and notwithstanding the effect of that pregnancy on that particular woman. That situation presented a classic case of what human rights legislation is all about. At the core of human rights legislation is the belief that people should be treated on their own merits and not by a categorization process that bears no relationship to the employment decision at hand . . . I conclude that pregnant women should be entitled to the reasonable cause protections

established in Section 8(1) of the Rights Code.

The Board ordered that the Respondent cease and refrain from "denying employee teachers the right to draw on accumulated sick leave benefits when the School Board is advised that the employee's illness, whether physical or mental, which occasions the absence is caused or aggravated by pregnancy."

As a result of this decision, a teacher who had been sick while pregnant was compensated retroactively in the amount of \$3,609.00.

APRIL 1979

HUMAN RIGHTS CODE — BOARD OF INQUIRY DECISION

Elizabeth Garnett
(Complainant)

- and -

Kompleat Industries Incorporated
Carrying on business under the
form name of Kompleat Janitorial
Services
(Respondent)

- and -

Kathleen Ruff, Director, Human Rights Code
A party pursuant to Section 16(3) of the
Human Rights Code of British Columbia

Board: Josiah Wood

A Human Rights Board of Inquiry was appointed by the Minister of Labour to hear the complaint of Elizabeth Garnett alleging that Kompleat Industries Inc., carrying on business under the firm name of Kompleat Janitorial Services Ltd., refused to employ her for heavy duty janitorial work because of her sex.

On June 29, 1978 preliminary objections by Counsel for the Respondent and applications for amendment to the complaint by Counsel for the Complainant were heard by the Board. In its decision, the objections were not upheld.

With respect to the proposed amendments the Board recognized that the Respondent suffered no prejudice as a result of the proposed amendment, and that Counsel for the complainant sought to name as the Respondent only the correct corporate entity. Given that the Respondent had apparently changed the name from Kompleat Janitorial Services Ltd. to Kompleat Industries Incorporated only one month before the complaint form was dated and signed, that the Respondent did not notify the Human Rights Branch of the error prior to the hearing, and that Counsel for the Respondent conceded that the Respondent had not been in

any way misled by the "mis-description" in the original complaint, the amendment was allowed.

In making this decision, the Board stated, "It is apparent that in this case as in many others that the complainant has had difficulty establishing the correct identity of the entity against whom the complaint is raised. . . . it seems to me that I should give effect to the spirit and intent of the legislation which was designed to be remedial and grant the requested amendment."

Subsequent to the Board's report on these preliminary matters, a settlement agreement satisfactory to all parties was achieved. Since the Board of Inquiry had already been established to hear the case, the settlement agreement was submitted to the Board for ratification.

The ratified Memorandum of Agreement provided for:

- (1) an agreement by the Respondent that all applicants for heavy duty janitorial work will be evaluated on individual merit without reference to the applicant's sex;
- (2) an apology by the Respondent to the Complainant for any inconvenience or injury to self-respect;

- (3) payment by the Respondent of \$200.00 to the Human Rights Branch for expenses incurred in setting up a Board of Inquiry;
- (4) payment to the Complainant of \$800.00, as

a demonstration of good faith and without admission of liability;

- (5) an agreement to keep on file for six months all applications for employment.

MAY 1977
APRIL 19

HUMAN RIGHTS CODE — BOARD OF INQUIRY DECISION

Kathleen Ruff
(Complainant)

vs. A.A.A. Rentagard Canada Limited
(Respondent)

Board: Leon Getz

A Human Rights Board of Inquiry was appointed in December 1977 to hear an allegation by the Director, Human Rights Code, that A.A.A. Rentagard Canada Ltd. was in breach of Section 7(b) of the Human Rights Code of BC. Specifically, it was alleged that A.A.A. Rentagard required all applicants for employment as security guards to complete an application form which asks the applicant's place of birth as well as the place of birth of his spouse.

The Relevant section of the Human Rights Code reads:

"No person shall use or circulate any form of application for employment, publish or cause to be published any advertisement in connection with employment or prospective employment, or make any written or oral inquiry of an applicant that
(b) requires an applicant to furnish any information concerning race, religion, colour, ancestry, place of origin, or political belief."

The respondent was represented by Mr. R. Sterzer, President of A.A.A. Rentagard Canada Ltd. He did not dispute that the inquiry into place of birth was used on the application form. He took the position, however, that the information related to an applicant's place of birth was necessary to determine a candidate's fitness to work in his business as a security guard. He specifically expressed the view that unless he made the inquiry, he would not be able to check the criminal record of an applicant born outside Canada.

The Director argued that Section 7 clearly prohibits any inquiry into an applicant's place of origin and that, in addition, any person employed as a security guard must be licensed pursuant to

the provisions of the Private Investigators Licensing act which includes an independent background check by the RCMP.

The Board determined that the provisions of Section 7(b) are absolute in application and stated: "I would not be within my jurisdiction therefore to grant dispensation from the operation of that Section."

The Board's conclusion was that a violation of Section 7(b) had taken place, and ordered that the respondent

- (1) Do cease contravening Section 7(b) of the Human Rights Code of British Columbia and do refrain from committing the same or any similar contravention in the future;
- (2) Do supply to the Director, Human Rights Code, a copy of the revised application form for employment as a security guard which complies with the provisions of the Code, and is acceptable to the Director.