

IN THE MATTER OF THE HUMAN RIGHTS
CODE OF BRITISH COLUMBIA

AND

IN THE MATTER OF A BOARD OF INQUIRY
HEARING RESPECTING A COMPLAINT MADE
BY PAULOS OXOUZIDIS AND DEBORAH
OXOUZIDIS AGAINST GAT SINGH CHAHHEL
AND JASPEL CHAHHEL

REASONS FOR DECISION AND ORDER

DATE OF HEARING:	March 27th, 1975.
PLACE OF HEARING:	Port Alberni, British Columbia
MEMBERS OF THE BOARD OF INQUIRY:	Rod Germaine (Chairman) Dr. Jack Kehoe Walter Peain
EFFECTIVE DATE OF DECISION:	May 27th, 1975.

This is a complaint made by Paulos Oxouzidis and Deborah Oxouzidis against Gat Singh Chahel and Jaspel Chahel. The Complainants allege that because of Deborah Oxouzidis' race they were denied occupancy in a self-contained dwelling unit which was advertised as being available for occupancy. The alleged discrimination occurred on August 9th, 1974. At that time the Human Rights Act, Statutes of British Columbia, 1969, Chapter 10, was still in force. The Human Rights Act has subsequently been repealed and replaced by the Human Rights Code of British Columbia, Statutes of British Columbia, 1973, 2nd Session, Chapter 119. Because the Human Rights Act was in force at the time of the alleged discrimination the Board must determine whether there has been a contravention of Section 9 of the Human Rights Act which is the provision in that Statute which governed discrimination in respect of tenancies.

Paulos Oxouzidis and Jaspel Chahel were not present at the hearing. The Board received sworn testimony from Maurice Guilbeault and Ernie Webster, born of whom are Human Rights Officers. The Board also heard the sworn testimony of Phyllis Greenhough. In addition, the Board heard the sworn testimony of Marie Joseph, an Outreach worker and the mother of Deborah Oxouzidis. Finally, Gat Singh Chahel testified under oath. The parties were given an opportunity to cross-examine and to make submissions to the Board. Mr. Gary Carson, Assistant Director of the Human Rights Code of British Columbia, made submissions to the Board on behalf of the Director of the Human Rights Code.

The Board makes the following findings of fact. On the afternoon of August 9th, 1974, Mrs. Marie Joseph, on behalf of her daughter Deborah Oxouzidis and her son-in-law, called a telephone number appearing in a local newspaper advertisement for a suite for rent. Mrs. Joseph at first was advised that the advertised suite was available for rent and then later in the conversation Mrs. Joseph was told that the suite was no longer available. Mrs. Joseph apparently did not believe that she was being given an honest response to her inquiry so she phoned a second time a few minutes later and again was advised that the suite had been rented. Still not satisfied, Mrs. Joseph waited a few more minutes and, disguising her voice, phoned again and once again was advised that the suite was not available. Still unsatisfied, Mrs. Joseph asked her son-in-law, the Complainant Paulos Oxouzidis, to call and inquire about the suite. Paulos Oxouzidis was more successful and was invited to go immediately to the residence of Mr. and Mrs. Chahel. Mrs. Joseph and Mr. and Mrs. Oxouzidis drove to the residence of Mr. and Mrs. Chahel and Mr. Oxouzidis went to the door of the Chahel residence while Mrs. Joseph and Mrs. Oxouzidis concealed themselves behind the

shrubbery near by. Mr. Chahel came to the door and he and Mr. Oxouzidis discussed the advertised suite. Mr. Chahel appeared pleased at the prospect of renting to Mr. Oxouzidis and invited Mr. Oxouzidis to go to the residence in which the advertised suite is located. As Mr. Chahel and Mr. Oxouzidis walked toward the street in front of the Chahel residence, Mr. Chahel observed Mrs. Joseph and Mrs. Oxouzidis. Mrs. Joseph and Mrs. Oxouzidis are native indians. Shortly after he had first seen Mrs. Joseph and Mrs. Oxouzidis, Mr. Chahel told Mr. Oxouzidis that he had to return to his house to change his shoes and he went into his home. A few minutes later Mrs. Chahel came out of the Chahel residence and informed Mrs. Joseph and Mr. and Mrs. Oxouzidis that the suite had been rented and that her husband had not appreciated that fact when he had agreed to take Mr. Oxouzidis to view the suite. At that time Mrs. Joseph and Mrs. Chahel embarked on a lengthy conversation in which Mrs. Joseph began by pressing Mrs. Chahel in order ascertain the actual status of the advertised suite. During the subsequent discussion Mrs. Chahel is alleged to have made some statements of a discriminatory nature respecting native indians. Mrs. Joseph apparently informed Mrs. Chahel that she would be making a complaint under the Human Rights Act. Mrs. Joseph asked for Mrs. Chahel's name and Mrs. Chahel gave her a false name and even spelled the false name for Mrs. Joseph. Before Mrs. Joseph and Mr. and Mrs. Oxouzidis left the Chahel residence Mrs. Chahel went into her home and came out a few minutes later to explain that her husband had still not changed his mind. Mrs. Joseph told Mrs. Chahel that she and the Oxouzidis' would go to the premises containing the suite for rent and wait there for Mr. and Mrs. Chahel to show them the suite. Mr. and Mrs. Oxouzidis, accompanied by Mrs. Joseph, went to the residence containing the advertised suite and waited there for one and one half hours. The Chahels did not arrive. While Mr. and Mrs. Oxouzidis and Mrs. Joseph

were at the location of the advertised suite they spoke with Mrs. Greenhough, a tenant in another suite in the building. Mrs. Greenhough testified at the hearing that earlier in the afternoon of the day on which she spoke to Mrs. Joseph at her suite she had been advised by Mrs. Chahel that the suite was still for rent. There was further evidence concerning the various reasons offered by Mr. and Mrs. Chahel for their refusal to rent the suite to Mr. and Mrs. Oxouzidis. One of the reasons offered was that Mrs. Oxouzidis was pregnant but Mrs. Greenhough testified that she had children while she was living in the same building. Another reason offered was that the Chahels preferred to rent to older persons. Mrs. Greenhough, however, testified that a number of younger persons had rented suites in the building. A further reason offered by the Chahels was that the suite had been rented to a man named Wells or alternatively to a man named MacGregor. The receipt book tendered by Mr. Chahel at the hearing was a poorly maintained book and it proved inconclusive in respect of the issue of whether the suite had in fact been rented to either a Mr. Wells or a Mr. MacGregor. In addition, the investigations of Human Rights Officer Guilbeault, conducted on August 15 and 16, 1974, did not establish with any certainty the precise date upon which either of the persons named Wells and MacGregor had taken suites in the building. It was not until Mr. Guilbeault conducted his investigations that the actual name of Mr. and Mrs. Chahel was discovered.

A detailed analysis of the evidence relating to the reasons offered by Mr. and Mrs. Chahel for their refusal to rent to Mr. and Mrs. Oxouzidis is rendered unnecessary by the testimony given by Mr. Chahel at the hearing. Mr. Chahel began his evidence by stating simply that his wife did not

realize the suite had been rented when she spoke with Mrs. Greenhough on the afternoon of August 9th, 1974. Mr. Chahel was questioned by members of the Board as to why he had changed his mind about showing the suite to Mr. Oxouzidis. In response to these questions, Mr. Chahel stated frankly that he did not rent to native Indians because, in his opinion, they were not good tenants. His expressed reasons for this opinion do not merit repetition in this decision. Upon further questioning, Mr. Chahel admitted that he changed his mind about showing the suite to Mr. Oxouzidis when he saw Mrs. Joseph and Mrs. Oxouzidis. Finally, he admitted that he knew at the time he was speaking with Mr. Oxouzidis that a suite was available or soon would be available for rent.

Section 9 of the Human Rights Act reads as follows:

No person directly or indirectly, alone or with another, by himself or by the interposition of another shall:

- a) deny to any person or class of persons the right to occupy as a tenant, owner, or purchaser any commercial unit or self-contained dwelling unit that is advertised or otherwise in any way represented as being available for occupancy by a tenant, owner, or purchaser; or
- b) discriminate against any person or class of persons with respect to any term or condition of the tenancy or purchase of any commercial unit or any self contained dwelling unit

because of the race, religion, colour, nationality, ancestry, or place of origin of that person or class of persons.

On the facts found by the Board and on the basis of the statements made to the Board by Mr. Chahel, it is the unanimous determination of the Board that Mr. and Mrs. Chahel contravened Section 9(a) of the Human Rights Act. By the admission of Mr. Chahel the decision not to show the advertised suite to Mr. and Mrs. Oxouzidis was the result of his opinion that native Indians

are not good tenants. Mr. and Mrs. Chahel therefore denied to Mr. and Mrs. Oxouzidis a self-contained dwelling unit which was advertised as being available for occupancy by a tenant because of the race of Mrs. Oxouzidis. The Board would add only that, while Mr. Chahel was frank and honest with the Board, he nevertheless committed precisely the type of act which most human rights legislation is designed to both discourage and prohibit. The decision to deny the suite to the Complainants was based upon irrational and unwarranted prejudices respecting race.

Mrs. Joseph, on behalf of the Complainants, advised the Board that Mr. and Mrs. Oxouzidis no longer wish to rent the suite denied to them by Mr. and Mrs. Chahel. Mrs. Joseph also indicated to the Board that the purpose for which the complaint was pursued was educational and aimed at the landlords in the Alberni valley. The Board will therefore exercise its power under Section 17(2) of the Human Rights Code and make an Order that Mr. and Mrs. Chahel refrain from committing the same or a similar contravention. Since the complainants requested no other remedy the Board will make no additional Order. However, the Board is of the opinion that the actions of Mr. and Mrs. Chahel would constitute a contravention of Section 5 of the Human Rights Code which is the section of the prevailing legislation which governs discrimination in respect of residential tenancies. Therefore, if a complaint such as the one brought by Mr. and Mrs. Oxouzidis were to arise under the Human Rights Code now in force, the Board of Inquiry hearing that complaint could, in the appropriate circumstances, make an order which would be much more burdensome for the person found to have contravened the Code than the order this Board will make against Mr. and Mrs. Chahel. The powers of Boards of Inquiry are set out in Section 17 of the Human Rights Code. That section reads as

follows:

17.(1) Where a board of inquiry is of the opinion that an allegation is not justified, the board may dismiss the allegation.

(2) Where a board of inquiry is of the opinion that an allegation is justified, the board of inquiry shall order any person who contravened this Act to cease such a contravention, and to refrain from committing the same or a similar contravention, and may

(a) order a person who contravened the Act to make available to the person discriminated against such rights, opportunities, or privileges as, in the opinion of the board, he was denied contrary to this Act;

(b) order the person who contravened the Act to compensate the person discriminated against for all, or such part as the board may determine, of any wages or salary lost, or expenses incurred, by reason of the contravention of this Act; and

(c) where the board is of the opinion that

(1) the person who contravened this Act did so knowingly or with a wanton disregard; and

(ii) the person discriminated against suffered aggravated damages in respect of his feelings or self-respect,

the board may order the person who contravened this Act to pay to the person discriminated against such compensation, not exceeding five thousand dollars, as the board may determine.

(3) A board of inquiry may make such order as to costs as it considers appropriate.

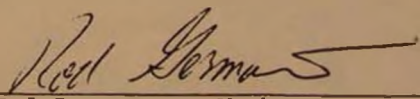
(4) Where an order is made under subsection (3) or clause(b) or (c) of subsection(2), the commission or the person who was discriminated against and in whose favour the order is made may file a certified copy of the order with the Supreme Court or with a

County Court, and, thereupon, the order has the same force and effect, and all proceedings may be taken on it, as if it were a judgment of the appropriate court for the recovery of a debt of the amount stated in the order against the person named in it.

O R D E R

WHEREAS Gat Singh Chahel and Jaspel Chahel have been found to have contravened Section 9 of the Human Rights Act;

IT IS THEREFORE HEREBY ORDERED that Gat Singh Chahel and Jaspel Chahel refrain from committing the same or similar contraventions.



Rod Germaine - Chairman
For the Board