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HUMAN RIGHTS OFFICER

PARLIAMENT BUILDINGS
VICTORIA, B.C.

OFFICE:
FIFTH FLOOR
880 DOUGLAS STREET
VICTORIA, B.C.

IN THE MATTER OF:

THE HUMAN RIGHTS CODE, R.S.B.C. 1979, CHAP. 186

AND

BETWEEN:

KATHLEEN STRENJA

Complainant

AND:

BOB BENNETTS, SR. and
COMOX TAXI LTD.

Respondents

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REASONS FOR DECISION OF THE BOARD OF INQUIRY

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APPEARANCES: William Pearce and Don Winross
for the Complainant and the Director of the Human Rights Code

Margaret Westfall and Horst Marschall, in person, as principals of the Respondent Comox Taxi Ltd.

DATE AND PLACE OF HEARING: July 6, 1981, Courtenay, B.C.

A Board of Inquiry was appointed in this matter by the Minister of Labour pursuant to section 16 of the Human Rights Code. The allegation referred to the Board is as follows:

> I allege that I was discriminated against when I was refused continued employment because of my sex, contrary to s. 8 of the Human Rights Code. I further allege that I was discriminated against in respect of employment because of my sex contrary to the provisions of the Human Rights Code of B.C.

This complaint was signed by Kathleen Strenja, the Complainant, on September 16, 1980. The discrimination is alleged to have taken place in Courtenay, B.C., on March 23, 1980.

Section 8 of the Human Rights Code reads:

> 8. (1) Every person has the right of equality of opportunity based on bona fide qualifications in respect of his occupation or employment, or in respect of an intended occupation, employment, advancement or promotion; and, without limiting the generality of the foregoing,
>
> (a) no employer shall refuse to employ, or to continue to employ, or to advance or promote that person, or discriminate against that person in respect of employment or a condition of employment; and
>
> (b) employment agency shall refuse to refer him for employment, unless reasonable cause exists for the refusal or discrimination.
>
> (2) For the purposes of subsection (1),
>
> (a) the race, religion, colour, age, marital status, ancestry, place of origin or political belief of any person or class of persons shall not constitute reasonable cause;
>
> (b) a provision respecting Canadian citizenship in any Act constitutes reasonable cause;
>
> (c) the sex of a person shall not constitute reasonable cause unless it relates to the maintenance of public decency;
>
> (d) a conviction of a criminal or summary conviction charge shall not constitute reasonable cause unless the charge relates to the occupation or employment, or to the intended occupation, employment, advancement or promotion of a person.

Kathleen Strenja had formerly lived in the Courtenay area and liked it. She moved back there in about September, 1979, because she wished to live and find work there again after the birth of the child she was expecting. The child was born on January 2, 1980. A few months later, Mrs. Strenja began to seek employment. Mrs. Strenja's husband was then unable to work because of an injury he had suffered, and therefore she alone would be supporting the family except for the contribution made by her husband's Worker's Compensation payments.

Comox Taxi Ltd. (the "Company") carries on business in Courtenay under the name of "United Cabs." It is now owned by Margaret Westfall and Horst Marschall, both former employees, but in March, 1980 it was owned by the Respondent, Bob Bennetts, Sr., through another company which he owned.

On March 21, 1980, Mrs. Strenja went to the Comox Taxi Ltd. office to look for a job. There were five or six drivers present as well as a dispatcher. Mrs. Strenja explained that she had driven a cab in Vancouver and was interested in working in Courtenay. She recalled a discussion with the other drivers in which questions about her experience and background were asked, particularly about comparisons between Vancouver and Courtenay. She could not remember whether she showed her driver's licence at that time, but she did tell the dispatcher that she had a Class 4 and Class 6 license, which would permit her to drive a taxi. She also recalled conversation with the dispatcher about the policy of Bob Bennetts, Sr. not to hire women drivers. Mrs. Strenja filled out a piece of paper with her name, address and experience on it and posted it on a corkboard. This board was known as the "Spare Board." Names posted on the Spare Board in the Company office formed a pool of part-time drivers willing to drive for

the Company from which the owner-operators could seek replacements for shifts they did not wish to work themselves.

Mrs. Strenja recalls that several drivers said that they were willing to use her services on a part-time basis. On the strength of those discussions, she hoped that she would be able to work almost full-time -- up to four shifts per week.

The next day one of the drivers, Stephen Hawley, telephoned Mrs. Strenja and asked her to start on Sunday noon (March 23, 1980), saying that he would be going away for the week and that she would have responsibility for the car in his absence. The financial arrangement was to be 50-50, with Mr. Hawley paying the gas.

Mrs. Strenja, in fact, drove Mr. Hawley's taxi for three hours on Sunday, March 23, 1980, taking in $25 or $26 in fares and $7 or $8 in tips. After three hours she happened to be back at the Comox Taxi Ltd. office when Mr. Bob Bennetts, Jr., the son of the then owner of the Company, came in. Mr. Bennetts, Jr., said to Mrs. Strenja that he did not like the idea of a woman driving and neither did his father. He told Mrs. Strenja she should just park the car. Five minutes later, Mr. Bennetts, Sr., appeared, walking his dog. He saw Mrs. Strenja, became upset, and said that his policy was never to hire a woman and that he never would. He told Mrs. Strenja to park the car. He said that he was going to take Mr. Hawley's contract, and he then took out some papers and threw them in the garbage. He proceeded to remove the municipal licence plates (which permitted use as a taxi) from the Hawley vehicle and threw them in the garbage as well. He stated that Mr. Hawley and Mrs. Strenja would never drive for the Company again, that Mr. Hawley had signed a contract that he would not hire women, and that the dispatcher too would be fired if she dispatched Mrs. Strenja

again. He told Mrs. Strenja not to take the car, but Mrs. Strenja did take it across the street to the office of the local detachment of the R.C.M.P. She stated that she felt responsible for the car and wanted to know where she stood.

In the police station Mrs. Strenja said that she told Corporal Geisser of the R.C.M.P. what had happened, and that he took notes. A few minutes later Mr. Bennetts, Sr., came in. Corporal Geisser testified that Mr. Bennetts, Sr., said that he leased motor carrier plates to drivers through his company, Comox Taxi Ltd. He said that his policy was not to hire women, that this was the Company policy, that he had been with the taxi business since 1954 and that women attracted too much trouble. He also told Corporal Geisser that women drivers just don't work out in this town. He said that he hired women as dispatchers, but not as drivers because they're "just trouble"; he mentioned the risk of rapes. He went on to say that communications are better with men drivers and women dispatchers, because you always know right away who is speaking on the radio. He confirmed that he had removed the municipal plates from Hawley's taxi because he would not hire women.

Mrs. Strenja did not remember any discussion about her qualifications at all. She did not recall her driver's licence being asked for or her qualifications being questioned. She stated that the discussion got fairly heated. All of this was corroborated by Corporal Geisser.

Upon Corporal Geisser's advice that of Mrs. Strenja could take the car so long as it was not being driven as a taxi, she drove it to her home.

Stephen Hawley gave evidence which corroborated that of Mrs. Strenja in most particulars. He also testified that, when Mrs. Strenja had applied to be a part-time driver, he and some of the other owner-operators

had discussed the matter and he had thought that, now that there was an owner-operator system in effect at the Company rather than the previous system with driver-employees, Mr. Bennetts would no longer "use his prerogative" to ban women from driving for the Company.

Mrs. Strenja said that after this experience with Comox Taxi Ltd., she was unable to find employment in the Courtenay area, because there is no taxi company in the Comox Valley other than Comox Taxi Ltd. and there were no other driving jobs available locally. (Mrs. Strenja's only experience was as a taxi driver, except for some experience as a waitress. Because of a gall bladder operation she had undergone on March 4, 1980, she had been advised by her doctor not to work as a waitress because of the constant carrying of heavy trays.)

The Strenja family went on welfare as of May 1, 1980. In September, Mr. and Mrs. Strenja moved back to Vancouver with their baby. They had to live in one room in a run-down hotel in Vancouver until they found work and a house to live in.

The Respondent, Bob Bennetts, Sr., did not appear at the hearing. A letter dated May 14, 1981 to the Minister of Labour, signed "R. Bennetts", was produced by counsel for the Complainant and the Director in the context of discussions about whether the Board of Inquiry ought to proceed in the absence of Mr. Bennetts. Because, in the end, the Director asked for no order against Mr. Bennetts, those discussions became irrelevant. However, I have examined what Mr. Bennetts said in his letter by way of defence to the allegation against him in order to ensure that the other Respondent, which was unrepresented by counsel, is not thereby prejudiced. It may have been that the letter could have been accepted in evidence. I will

therefore deal with its contents on their merits.

In his letter, Mr. Bennetts says, in summary, that he disallowed Mrs. Strenja from driving because he had not had the opportunity to check out her qualifications as required by law. Mr. Bennetts refers to the Motor Vehicle Act, s. 33, as imposing such a requirement upon the holder of a taxi license and points out that, between Friday, when Mrs. Strenja first applied for employment, and Sunday, when she was found in the car by Mr. Bennetts, it would have been impossible for the Company to confirm that her driving record was up to Company standards because the Courtenay Government Office is closed on weekends. The letter also refers to the recent surgery undergone by Mrs. Strenja at the time of the incident, and to the lack of a medical certificate proving that she was fit to drive.

Margaret Westfall gave evidence which corroborated the fact that the Company's policy was to check out the qualifications of drivers before they were allowed on the road, and I accept that this was the Company policy, although Mr. Hawley gave evidence which indicated that this policy was not consistently followed. Mrs. Westfall testified that she has been involved with the Company for a number of years, and that she was aware that Mr. Bennetts felt strongly about the issue of women drivers and had refused to hire them as a matter of policy.

Taking all of the evidence into account, including what Mr. Bennetts says in his letter, the conclusion is inescapable that, when he removed the licence plates and attempted to expel Mrs. Strenja from the Hawley vehicle, he was not concerned about her qualifications to drive or her medical condition -- his concern was her gender. To act on the basis of such a concern in terminating employment is to violate the Code, in the absence of reasonable cause. In fact, even if her gender was not his only concern, if

it was one factor or an effective factor underlying his conduct, decisions of Boards of Inquiry in this province have recognized that the Code will still have been contavened [for example, Georgina Anne Bremer v. Board of School Trustees, School District No. 62 (Sooke) and Percy B. Pullinger, (B.C. H.R.B.I. June 10, 1977) and H.W. and Jack R. Kroff and Riviera Reservations of Canada Ltd. (B.C. H.R.B.I. July 22, 1976)].

There was no evidence led to suggest that Mr. Bennetts was not acting for the Company when he terminated Mrs. Strenja's connection with it, or that his act was not the Company's act. Nor was there any evidence to suggest that reasonable cause existed within the meaning of sec. 8(2)(c). Therefore, I conclude that the conduct of Mr. Bennetts was discriminatory within the meaning of the Code and that the Respondent Company is answerable for it so long as a relationship existed between the Complianant and the Company such that Section 8 of the Code is applicable.

The Human Rights Code defines "employment" as follows:

> "empoyment" includes the relationship of master and servant, master and apprentice, and principal and agent, if a substantial part of the agent's services relate to the affairs of one principal; and "employ" has a corresponding meaning;

There is also a definition of "employment agency" in the Code:

> "employment agency" includes a person who undertakes with or without compensation, to procure employees for employers or to procure employment for persons;

There are several questions to be answered at this juncture. They are:

(1) Was Kathleen Strenja an employee or an independent contractor? If she was an independent contractor, the allegation has not been proved because there was no discrimination in respect of employment within the meaning of the Code.

(2) If Mrs. Strenja was an employee, was she the employee of the Company or of Stephen Hawley? If she was the employee of the Company, the allegation has been proved. If she was the employee of Stephen Hawley, then further enquiries must be made, namely:

(a) Was Mrs. Strenja the employee of both Mr. Hawley and the Company? If that were the case, then the allegation would be proved.

(b) Was Mrs. Strenja the employee of Stephen Hawley alone? If so, the allegation would not be proved unless it were also the case that the Company acted in the role of an employment agency within the meaning of the Code in bringing her and her employer together. If the Company did act in that role, then did it discriminate against her by refusing to refer her for employment subsequent to March 23, 1980?

I must now examine the evidence about the relationship between the Complainant and the Respondent Company. This evidence came mainly from Stephen Hawley and Margaret Westfall. It was not as detailed or extensive as it should have been.

The Company owned the Public Utilities Commission (taxi) licences, as well as the office, the radio equipment (although there was no evidence to indicate whether the Company owned the radio equipment in each individual vehicle) and the name ("United Cabs"). The Company employed the dispatchers, who received requests for taxis from the public and dispatched particular drivers where needed. The owner-operators owned the motor vehicles individually, and had a contract with the Company pursuant to which the taxi licenses were leased, the services of the dispatchers

used, the office administered, and so on, in return for a monthly fee. The owner-operators were responsible for keeping the cars on the road when they were supposed to be, either by driving them themselves or by retaining at their own expense other qualified drivers. The owner-operator system had replaced a driver-employee system in October, 1979.

It would appear that part-time drivers such as Mrs. Strenja obtained work through the joint action of the Company and the owner-operators. The Company maintained the Spare Board and ensured that the drivers whose names were posted were qualified to drive; the owner-operators selected which of the drivers on the Spare Board to use. (There was no evidence whether owner-operators were compelled to use drivers from the Spare Board or whether they could use other drivers known to them privately, but it is fair to conclude that the Company would still have, in that event, the same right to veto drivers of which it did not approve.) It would also appear that the Company had the undoubted right to terminate the services of any part-time driver without the concurrence of the owner-operators collectively or individually, as exemplified in the case of Mrs. Strenja.

The contract between Mr. Hawley and the Company was not entered as an exhibit, and its terms were described only very generally by the witnesses. Nor did it appear on the evidence who, if anyone, was responsible for payment of Unemployment Insurance or for making other statutory deductions for Mrs. Strenja.

Moreover, there was little evidence about the day-to-day supervision and control of the part-time drivers, although there was evidence that they were responsible to keep the cars on the road in the same manner in which the owner-operators would be if they themselves were behind the wheel, in that they worked with the dispatcher employed by the Company,

and were required to follow Company rules and regulations (whatever those may have been.)

In the light of these facts, I will address the questions set forth above.

First, was Mrs. Strenja an employee or an independent contractor? Reference to Employment Law in Canada by Innis Christie (Butterworths, 1980) and to some of the cases cited by that author (pp. 17-32) as well as to decisions in the labour relations area (including Yellow Cab v. Board of Industrial Relations, et al., Supreme Court of Canada, October 7, 1980, Fownes Construction Co. Ltd. and Teamster Local Union 213, [1974] Can. L.R.B.R. 453 (B.C.L.R.B.); K.J.R. Independent Truckers Association and K.J.R. Associates Ltd.; Canadian Brotherhood of Railway, Transport and General Workers et al., [1979] 2 Can. L.R.B.R. 445; Regina v. Mac's Milk Ltd., (1973) 40 D.L.R. (3d) 714 (Alta. S.C., App.Div.); Re Telegram Publishing Co. Ltd. and Amm et al., (1977) 77 D.L.R.(3d) 369 (Ont. H.Ct.), points to a number of factors which are taken into account in deciding this issue at common law and in the context of labour legislation. These factors include:

(1) power of selection,

(2) payment of wages,

(3) power to suspend or dismiss,

(4) ownership of the tools,

(5) chance of profit,

(6) risk of loss,

(7) purpose of the legislation, when there is a statutory definition,

(8) power to control the method of doing the work.

It seems clear on the authorities that the last factor is the most important, but it will be helpful to consider the others in order first.

Mrs. Strenja was selected through the joint action of a Company employee, the dispatcher who permitted her to put her name up on the Spare Board, and Mr. Hawley, who telephoned her to cover a shift or shifts for him. The selection was of her personally - that is she could not have sent someone else in her place. She was paid a percentage of the day's gross by Mr. Hawley. The Company had the power to dismiss her, and Mr. Hawley presumably had the same power although it would be limited to the use of his vehicle and would not extend to a general termination as was carried out by Mr. Bennetts. The "tools" were owned in part by Mr. Hawley and in part by the Company, in that he owned the vehicle but the Company owned the licence, the radio, etc. Mrs. Strenja did stand to make more money if she had a successful shift, and so had a "chance of profit" in that sense. She did not risk the loss of anything except her own time.

Leaving aside the purpose of the legislation for the moment, how much control did Mrs. Strenja have over the method in which she did her work? The evidence before the Board was that she was required to abide by Company rules and regulations (contents unknown), that she responded to calls from the dispatcher, and that she worked at the time requested by Mr. Hawley. It is here that the lack of detailed evidence makes it difficult to decide the point but on a balance of probabilities I find that both Mr. Hawley and the Company had a measure of control over the manner in which Mrs. Strenja carried out her duties during her shift, although certainly no detailed supervision could have been involved in the circumstances.

In summary, I conclude that Mrs. Strenja was much more like a delivery driver or a casual labourer who may be assigned to various job sites than she was like an entrepreneur. Under the definition of the Code, interpreted in the light of the common law, she was an employee. (I should add that I have concluded that it does not matter what the status of Mr. Hawley was in reaching this conclusion. If he was the independent or dependent contractor of the Company, it is still possible that he acted as the Company's agent in employing Mrs. Strenja, or that he employed her jointly with the Company. If he was himself the Company's employee, again he could have been the Company's agent in retaining Mrs. Strenja on the Company's behalf. In this regard, see the K.J.R. case cited above, where the Canada Labour Relations Board found that the employees of a dependent contractor were the employees of the Company with whom the contract was made for the purposes of determining an appropriate bargaining unit.)

My conclusion that Mrs. Stenja was an employee is reinforced by an examination of the opening words of sec. 8 of the Code, which set out what must be taken to be the purpose of the legislation -- to ensure that "Every person has the right to equality of opportunity based on bona fide qualifications in respect of his occupation or employment, or in respect of an intended occupation, employment, advancement or promotion..." It seems clear that the legislature would not hve intended that someone in Mrs. Strenja's position be excluded from the protection of the Code through a restrictive interpretation of the definition of "employment" and it would only be through a very restrictive interpretation that such a consequence would result.

That the legislature did not intend the definition of "employee" to be interpreted restrictively is evident as well from the wording used in the

drafting -- "'employment' includes..." (emphasis added). The legislation here is thereby significantly different from that considered by the Supreme Court of Canada in the Yellow Cab Ltd. case, where the section in question read "'employee' means a person employed by an employer to do work or provide services of any nature who is in receipt of or entitled to wages..." (emphasis added). (In that case the Court held that the definition was exhaustive and did not include taxi drivers who were not paid by the Company for which they drove, but rather by the customers.)

The second question, then, is whether Mrs. Strenja was the employee of the Company, of Stephen Hawley, or of both?. Counsel for the Complainant and the Human Rights Branch cited two cases to the Board in which it was necessary to determine whether someone was an employee for purposes connected with negligence claims. In Hastings v. Le Roi No. 2, Limited, (1903) 10 B.C.R. 9 (B.C.C.A.), the Court held that a workman who was injured while working at a job site on a project for which his employer had a contract with the owner, who was subject to the approval and direction of the owner's representatives, and to the orders of the owner in the manner in which he carried out the work, was the employee of the owner. This enabled the owner to defend against the workman's claim for damages on the basis of the now-extinct defence of common employment because the injuries were suffered as the result of the negligence of one of the owner's employees. On appeal, the Supreme Court of Canada upheld the decision at (1903-04) 34 S.C.R. 177. Nesbitt J. said, in his Reasons for Judgment, at p. 189:

> All the authorities establish clearly that A. may employ B. and pay him, and still B. being under the control of C. has a common employment with others engaged in the same work who are under the control of C. and who are directly hired by C.

In McDonald et al. v. Associated Fuels Ltd. et al. [1954] 3 D.L.R. 775 (B.S.S.C.), Macfarlane J. held that a company which retained someone to make deliveries for it was responsible not only for the negligence of that person (who was held to be a servant, rather than an independent contractor) but also for the negligence of that person's employee.

These cases illustrate that the law recognizes that an employee may have more than one employer at a time or, to put it another way, an employment relationship may subsist between an employee and more than one person simultaneously, for different purposes.

Here, it is significant that it was the representative of the Company who dismissed Mrs. Strenja, using the words "You'll never drive for the Company again" as well as the words "I've never hired a women and I never will", and that no-one, including Mr. Hawley, ever disputed that the Company had the right to do what it did -- note his reference to Mr. Bennetts's "prerogative" to that effect. From the language used, it appears that Mr. Bennetts thought he was dismissing a Company employee. What he thought about the relationship, although not decisive, is a factor which the Board may bear in mind as evidence of the parties' intentions.

Further, it may be seen that, of all of the factors relating to Mrs. Strenja's employment listed above, only one (payment) pertained exclusively to Mr. Hawley. All of the others were shared with the Company.

Considering that fact, as well as all of the other factors which are relevant, I find that Mrs. Strenja was the employee of the Company for the purposes of the Code. (She may well have been the employee of Stephen Hawley for other purposes, and the employee of Hawley for the purposes of the Code as well, but it is not necessary to determine that point.)

If I am wrong in that conclusion, then could the Company still be responsible for Mr. Bennetts's actions by virtue of sec. 8(1)(b)? (Although the language in the complaint form seems to follow closely the wording of sec. 8(1)(a), no sub-section number is specified and the wording of the complaint does not preclude consideration of sec. 8(1)(b). The evidence bearing on the application of the two sub-sections would be the same. Therefore, although the possible application of sec. 8(1)(b) was not raised at the hearing at all, I find it is appropriate to consider it.)

Assuming that part-time drivers were employed by the owner-operators alone, what the Company did in maintaining the Spare Board could fairly be described as "undertaking, without compensation, to procure employees for employers or to procure employment for persons." Further, when Mr. Bennetts said that he would fire the dispatcher if she dispatched Mrs. Strenja again and went on to prohibit Mrs. Strenja from driving for the Company again, he was refusing to refer her for employment within the meaning of sec. 8(1)(b). Therefore, I find that, in the alternative, if the company was not the Compalainant's employer it was an employment agency which acted in contravention of sec. 8(1)(b) of the Code.

The result is that the allegation has been made out against the Company. (Although the persons appearing for the Company felt, perhaps understandably, that because they had had no involvement with Mrs. Strenja and had no control over the Company whatsoever at the time of the events in question, their Company should not be responsible, the law is clear that a Company is an independent legal entity whose legal rights and obligations continue to exist despite changes in ownership.)

There is now the question of the Order to be made.

Counsel for the Branch and the Complainant, in his submissions, asked for compensation for the Complainant for the following:

| | | |
|---|---|---|
| 1. | moving expenses | $351 |
| 2. | mortgage payments for two months at $333 per month while the house in Courtenay remained unsold and unrented | $666 |

He also asked for compensation for lost wages on the basis that Mrs. Strenja would likely have been able to earn $52.50 per shift for 20 shifts during the period between March 23, 1980 and May 1, 1980 when she began to receive Social Assistance, and that she would have been able to continue to work while on Social Assistance and keep $100 per month without deducting it from her Social Assistance cheque from May to September, thus:

| | | |
|---|---|---|
| 3. | lost wages up to May 1, 1980 | $1,050 |
| 4. | lost wages May 1-September 1, 1980 | $400 |
| | Total | $2,467 |

Counsel further submitted that Mrs. Strenja should be compensated for aggravated damages in respect of injuries to her feelings or self-respect, pursuant to Section 17(2)(c) of the Human Rights Code. Her evidence on the subject was scanty, but she did say that "it hurt to be told that I couldn't be trusted because I am a woman" and added that what was worse was having to go on welfare and live in the kind of accommodation which they did in Vancouver. She described the hotel in question as a "flea-trap".

A company which holds an effective monopoly over employment of a particular kind in a geographic area should be responsible for the consequences of refusing to employ someone when such refusal contravenes

the Code. The foreseeable consequences of such a refusal include that the individual will have to change residence in order to obtain employment in the line of work in which he or she is qualified. Therefore, I find that the claim for the moving expenses is reasonable. It might have been preferable to claim for the rent which was paid in Vancouver rather than the mortgage payments which were made in Courtenay because, to some extent, it could be argued that the mortgage payments went to build up a capital asset. However, on the assumption that the amounts would be roughly equal and that the mortgage payments (as is commonly the case) largely went toward the reduction of interest rather than principal, I find that that claim is reasonable as well, although I will remain seized of the matter and will hear submissions on it if either side wishes to make same.

On the issue of lost wages, I find that, on the evidence, Mrs. Strenja may have been somewhat over-optimistic about the number of shifts which she could have worked, and that 15 would be a reasonable number for her to expect between March 23 and May 1, 1980, producing a figure of $787.50. The claim for $100.00 per month from May 1 to September 1 seems reasonable.

On the issue of "aggravated damages", which have a punitive as well as a compensatory element, I bear in mind the fact that the persons whose Company is going to be responsible to pay the award had no connection with the discriminatory conduct. If it were a matter of considering this head of compensation in the context of the actual perpetrator, it may well have been different -- it is difficult to imagine a more flagrant breach of the Code, properly described as "wilful and wanton". However, no order is sought against Mr. Bennetts (and probably could not be made if sought, because there is no evidence that he personally was the employer of Mrs.

Strenja.) On the other hand, from the point of view of the victim of the discriminatory conduct, the damages in respect of her feelings and self-respect seem to have been real and relatively serious. She deserves compensation is this regard. In the light of all of the above, I conclude that an award of $350.00 with respect to sec. 17(2)(c) is appropriate.

Therefore, the order will be for the following amounts:

| | |
|---|---|
| moving expenses | $351.00 |
| lost wages March 23 - May 1 | $787.50 |
| lost wages May 1 - September 1 | $400.00 |
| aggravated damages | $350.00 |
| | $1,888.50 |

In addition, there will be an order for compensation for the mortgage payments unless further submissions are made in that regard and I am convinced otherwise.

## ORDER

Pursuant to sec. 17 of the Human Rights Code, R.S.B.C. 1979, chap. 186, and amendments thereto, this Board of Inquiry orders as follows:

1. Effective immediately, the Respondent Company shall cease to contravene sec. 8 of the Human Rights Code through discrimination by reason of sex and shall refrain from committing this or a similar contravention;

2. The Respondent Company shall pay to the Complainant the sum of $1538.50 in compensation for expenses to which she was put and wages she lost as a result of its discriminatory conduct;

3. The Respondent Company shall pay to the Complainant the sum of $350.00 in compensation for aggravated damages suffered by her in respect of her feelings or self respect;

4. This Board remains seized of this matter for the period of two weeks from the date of this order in order that the parties have the opportunity to make further submissions on the issue of compensation for the mortgage payments if they wish to do so;

5. If there are no further submissions within two weeks from the date of this order, the Respondent Company shall pay to the Complainant the sum of $666.00 ~~or~~ in compensation for the mortgage payments made by the Complainant after her return to Vancouver.

Dated this 25th day of August, 1981

Lynn Smith

LYNN SMITH, Chairperson