

IN THE MATTER OF AN ARBITRATION

HEARINGS HELD AT OTTAWA  
ON MAY 2nd AND 10th, 1988

B E T W E E N:

CANADIAN UNION OF PUBLIC EMPLOYEES  
LOCAL 2424

(Union)

- and -

CARLETON UNIVERSITY

(Employer)

AND IN THE MATTER OF THE  
GRIEVANCE OF JIM CARLETON

ARBITRATION BOARD: MAURICE W. WRIGHT, Q.C., Chairman  
TINA HEAD, Union Nominee  
J. PETER VICE, Q.C., Employer Nominee

A P P E A R A N C E S:

FOR THE UNION:

HOWARD GOLDBLATT, Counsel  
ANNE-MARIE DELOREY  
SYLVIA GRUDA, Member, Executive  
Committee, Local 2424  
BRUCE WINER, Chair, Grievance  
Committee, Local 2424  
CAREEN JONES, Business Agent  
Local 2424

FOR THE EMPLOYER:

WALTER T. LANGLEY, Counsel  
RICHARD BROWN, Carleton University  
CORALINE BARTLEY, Carleton University  
BRIAN McFADYEN, Carleton University

## A W A R D

The Grievance under review in this arbitration raises an issue which is novel and, as far as we know, without precedent in the labour arbitration field. The Grievor claims that his employer, Carleton University, is guilty of discrimination. Specifically, the Grievance reads as follows:-

"I the undersigned claim that the CUPE 2424 Collective Agreement is being violated in that I am being denied the same benefits for my same-sex spouse as other members of the bargaining unit receive for opposite-sex spouses.

Therefore I request that the Employer cease to discriminate on the basis of sexual orientation and that I be given the same benefits as heterosexual members of the bargaining unit effective immediately".

The Employer rejects the charge of discrimination and denies the Grievance.

The facts are not in dispute. Counsel for both the Employer and the Union proceeded on the basis of an Agreed Statement of Facts. The Agreed Statement of Facts, exclusive of appendices which were attached thereto, reads as follows:-

### "AGREED STATEMENT OF FACTS

1. The Canadian Union of Public Employees, Local 2424 (hereinafter referred to as the "union") is the certified bargaining agent for all employees of Carleton University (hereinafter referred to as the "employer") for the bargaining unit set out in Article 1 of the collective agreement, a copy of which is provided separately and agreed by the parties to be Exhibit "A".

2. At all material times the union and the employer were parties to the said collective agreement

which defined the terms and conditions of employment of all members of the said bargaining unit.

3. The collective agreement contains provisions for certain benefit payments including, but not limited to, those contained in Articles 22, 27 and 29 of the agreement. The following benefits are made available on a single or family basis as the case may be with the employee paying his or her share of the appropriate single or family premium as may be required by the provisions of the agreement.

- Ontario Health Insurance;
- Supplementary Medical Insurance; and
- University Dental Plan.

4. The family benefits have, in the past, consistently been made available to employees in a heterosexual common-law relationship. If an employee makes application for such benefits, the employer arranges for the benefits to be applied to those in the heterosexual common-law relationship and to their children, if any, as appropriate. There is no formal investigation of the nature of the heterosexual common-law relationship.

5. The Great West Life Assurance Company policy providing supplementary medical insurance and dental benefits defines dependant on page 3 paragraph 8. A copy of that page is attached hereto as Exhibit "B". The O.H.I.P. Regulations with respect to the definition of spouse and dependant are, in relevant part, attached hereto as Exhibit "C".

6. The collective agreement contains a definition of "spouse" in Article 3 which has been in the collective agreement since July 1, 1976.

"Article 3

DEFINITIONS

Spouse - Designates a husband or wife  
in law or in common law."

7. The collective agreement also contains a prohibition against discrimination on the basis

of sexual orientation and marital status which has been in the collective agreement since July 1, 1976.

"Article 5

NO DISCRIMINATION

5.01 It is agreed that there will be no discrimination by either party on the basis of age (except for retirement as provided for in the Carleton University Pension Plan), race, national origin, political or religious affiliation or belief, sex, sexual orientation, or marital status, in relation to salaries, fringe benefits, appointments, promotion, suspension, confirmation of appointment, or dismissal, or any other terms and conditions of employment."

(Underlining added)

8. In negotiations leading up to the renewal of the collective agreement for the period 1984-1985, the union tabled a demand on April 18, 1984, proposing that the definition of spouse be amended to include persons living in a homosexual relationship. A copy of the demand is attached as Exhibit "D". Such demand was subsequently withdrawn by the union during the course of the negotiations.

9. The grievor, Jim Carleton, has been employed by the employer since August of 1979 and was, at all material times, a Programmer/Electronics Technologist in the Science Technology Centre.

10. The grievor has, since December of 1982, continually co-habited with Mr. Bob Krawczyk, who is currently a third-year student in the Honours B.A. Program in History at Carleton University. Mr. Krawczyk also works part-time as a clerk in a magazine store.

11. The grievor and Mr. Krawczyk are each other's sole domestic and sexual partners; spend their holidays and vacations together; share the common necessities of life; share all household responsibilities; and are economically interdependent. Mr. Krawczyk lives in the grievor's home and does not pay any rent or lodging of any sort. Mr. Krawczyk is named as the grievor's sole beneficiary in the grievor's will and in the Employer's insurance plans. Mr. Carleton and Mr. Krawczyk hold themselves out to the community as each other's spouse and intend to continue to live as each other's spouse.

12. On April 16, 1985, the grievor, Carleton, contacted Ms. Bonnie Danford (Administrative Assistant - Pension & Benefits) requesting family coverage for dental and OHIP benefits on behalf of himself and Mr. Krawczyk. Ms. Danford, upon learning that the grievor was involved in a homosexual relationship informed the grievor that, under the University's working definition of spouse, benefits would not be available to Mr. Krawczyk.

13. On April 24, 1985, the grievor, Carleton, filed a grievance alleging that the employer had improperly denied him benefits contrary (sic) to the provisions of the collective agreement and claiming that the University had discriminated against him on the basis of sex. Attached hereto as Exhibit "E" is a copy of the grievance filed in respect of this matter.

14. On June 21, 1985, the employer denied the grievance.

15. The Great West Life policy has been effective from March 1, 1982 without change to the definition section. However, the grievor's application is the first time that a request had been made on behalf of a homosexual couple to obtain family coverage with respect to the benefits contained in the collective agreement.

16. The above Statement of Fact is without prejudice to the right of either party to call additional explanatory or supplementary factual evidence should such become necessary, and is without prejudice to the parties in respect of all legal argument which might be available to them.

17. There had been no discussion between the parties as to the effect of the policy on homosexual couples.

ALL OF WHICH IS AGREED TO.

(SIGNED)

\_\_\_\_\_  
WALTER LANGLEY  
of Burke, Robertson,  
Chadwick & Ritchie  
Solicitors for Carleton  
University

(SIGNED)

\_\_\_\_\_  
HOWARD GOLDBLATT  
of Sack, Charney,  
Goldblatt & Mitchell  
Solicitors for the Canadian  
Union of Public Employees,  
Local 2424 "

Paragraph 10 of the Agreed Statement of Facts states that the Grievor has, since December of 1982, continually cohabited with his same-sex partner, Mr. Bob Krawczyk; the nature of this relationship is described in Paragraph 11. Apparently the Grievance was triggered by the Employer's refusal to accede to the Grievor's request that family coverage for dental and O.H.I.P. benefits be made available for Mr. Krawczyk. Paragraph 12 of the Agreed Statement of Facts describes the Employer's response, namely that "...upon learning that the grievor was involved in a homosexual relationship (it) informed the grievor that, under the University's working definition of spouse, benefits would not be available to Mr. Krawczyk". The benefits which the Union says should be extended to the Grievor's same-sex partner are encompassed by Articles 22.02, 29 and 27 of the Collective Agreement. The relevant portions of the Articles in question are set out hereunder.

"22.02 Bereavement Leave

(a) The Employer will allow up to three (3) working days off without loss of pay in order to make the necessary arrangements and to attend the funeral of a member of her/his immediate family.

Immediate family is defined as: father, mother, stepfather, stepmother, foster parent, brother, sister, spouse, child, stepchild, ward of the employee, foster child, grandchild of the employee, father-in-law, mother-in-law and grandparents..."

(Underlining added)

"ARTICLE 29

EMPLOYEE BENEFIT PLANS

(a) All members of the bargaining unit shall be entitled to register for credit courses free of tuition from the date of employment with the Employer, but will be required to pay all supplementary fees.

(b) From the date of appointment, the employee's spouse and dependent children will be entitled to register for credit courses free of tuition, but will be required to pay all supplementary fees.

(c) If an employee, her/his spouse, or dependent is unsuccessful in the course(s) for which she/he registers, she/he must successfully complete the next course at her/his own expense in order to re-establish this privilege..."

(Underlining added)

"ARTICLE 27

EMPLOYEE BENEFIT PLANS

27.01 The Supplementary Medical Insurance, Ontario Health Insurance Plan, Group Life Insurance, Total Disability Insurance, University Dental Plan and Retirement Plan shall be voluntary or compulsory for the employees according to the terms of the Plans during the period of this Agreement. The cost-sharing arrangements will be as follows:

	*	<u>Employee</u>	<u>Employer</u>
Employees' Retirement Plan	(c)	6% of base salary	6% of base salary + at least 2.4% to the Minimum Guarantee Fund
Supplementary Medical Insurance	(v)	25%	75%
Ontario Health Insurance	(c)	25%	75%
Group Life Insurance Plan	(c)	25%	75%
Total Disability Insurance	(v)	25%	75%
University Dental Plan	(c)	---	(100% based on the current ODA scale of fees)

\*(c) compulsory (v) voluntary

27.02 The Employer will provide premium assistance for the Quebec Medicare program, in December of each year. If an employee becomes a resident in Quebec during a calendar year, she/he will receive premium assistance on a pro-rata basis.

27.03 For those employees who are residents of Quebec, the Employer will pay premium assistance for the Quebec Medical Program the amount that the Employer would have contributed on the employee's behalf to the Ontario Health Insurance Plan.

27.04 No changes shall be made to the Group Life, Supplementary Medical Insurance, and Total Disability plans except as a result of negotiations between the Employer and the Union or as may be required by law.

27.05 The Employer shall report to the Union (in such a way as not to breach confidentiality of individuals) all problems arising with respect to the application of the above-noted plans to members of the Bargaining Unit.

27.06 A copy of the Master Policies shall be provided to the Union..."

(Underlining added)

Basic to the Grievor's claim is Article 5.01 of the Collective Agreement which reads as follows:

"ARTICLE 5

NO DISCRIMINATION

5.01 It is agreed that there will be no discrimination by either party on the basis of age (except for retirement as provided for in the Carleton University Pension Plan), race, national origin, political or religious affiliation or beliefs, sex, sexual orientation, or marital status, in relation to salaries, fringe benefits, appointments, promotion, suspension, confirmation of appointment, or dismissal, or any other terms and conditions of employment..."

The relevant parts of the foregoing Article 5.01. for the purpose of these proceedings, are the following:

"It is agreed that there will be no discrimination by either party on the basis of...sexual orientation

or marital status, in relation to...fringe benefits  
...or any other terms or conditions of employment".

(Underlining added)

The Grievor contends that Article 22 (Bereavement Leave) and Article 29 (Tuition Fees) are being applied in a manner which discriminates against the Grievor on the basis of his sexual orientation. The benefits provided by Article 22.02 and Article 29 are available, inter alia, to a "spouse". It is argued on behalf of the Grievor that the benefits in favour of a "spouse" as they are implemented by the Employer involve discrimination based on sexual orientation and that this Board should "provide fringe benefits equally to all employees..." In the Union's written submission Counsel contends that a proper interpretation of Article 5 of the Collective Agreement "requires that these same benefits be provided to those employees in a same sex spousal-like relationship". The Collective Agreement, by Article 3 thereof, defines "spouse" as follows:-

"Spouse - Designates a husband or wife  
in law or in common law"

The above definition of "spouse" has been used without change in all Collective Agreements between the parties since July 1, 1976. The submission on behalf of the Grievor is that the definition of "spouse" in the Collective Agreement in itself discriminates against the Grievor because of his sexual orientation and that the meaning to be given to "spouse" must be read and understood subject to the no-discrimination provision embodied in Article 5 of the Collective Agreement.

This Board cannot adopt the Union's argument. Not only have the parties to the Collective Agreement given a specific definition to "spouse" which implies a heterosexual relationship but the definition also includes a common law spouse as well as a spouse married with the benefit of clergy. Presumably, if the parties had intended "spouse" not to encompass a heterosexual relationship they would have used clear language to say just that. Of greater importance, however, is the fact that the definition of "spouse" in Article 3 of the Collective Agreement is consistent with those provisions of the Human Rights Code, S.O. 1981 c.53 which deal directly with the issues which concern us herein. Sec. 9(1) of the Human Rights Code defines "marital status" and "spouse" in the following language:-

9(1)(g) "marital status" means the status of being married, single, widowed, divorced or separated and includes the status of living with a person of the opposite sex in a conjugal relationship outside marriage;

9(1)(j) "spouse" means the person to whom a person of the opposite sex is married or with whom the person is living in a conjugal relationship outside marriage.

(Underlining added)

The definitions of "marital status" and "spouse" in the Human Rights Code are extremely significant in the light of the legislative provision contained therein prohibiting discrimination based on sexual orientation. The relevant portions of sec. 4(1) of the Human Rights Code in the context of the case before us are as follows:-

4(1) "every person has the right to equal treatment with respect to employment without discrimination because of...sexual orientation (or)... marital status..."

(Underlining added)

Thus, it is very clear that the Human Rights Code itself which prohibits discrimination because of sexual orientation nevertheless regards a "spouse" as being "of the opposite sex". We were referred to a number of judgments but we regard the definition of "spouse" in Article 3 of the Collective Agreement to be legally appropriate for our purposes. We find support for this conclusion in the fact that the Human Rights Code deals with a spouse not as a same sex partner but as a "person of the opposite sex" who is either married or living in a common law relationship. We cannot be unmindful of the fact that the legislative prohibition against discrimination based on sexual orientation as vouchsafed in sec. 4(1) of the Human Rights Code is almost identical in language to that used in Article 5.01 of the Collective Agreement. Nor can we overlook the fact that the definitions of "spouse" as they are used in both the Human Rights Code and in the Collective Agreement are, for the purposes of this case, substantially the same.

We consider that the foregoing is dispositive of the Grievor's grievance insofar as the claims under Articles 22 and 29 are concerned. We do not consider that Article 3 of the Collective Agreement offends against Article 5 thereof or against the provisions of the Human Rights Code. In view of the specific provisions of Articles 22 and 29 limiting the benefits contained therein to "spouses" the Grievor's grievance regarding Articles 22 and 29 must be denied.

There remains to be dealt with that portion of the grievance relating to Article 27 of the Collective Agreement. Article 27 bears the heading "Employee Benefit Plans". Article 27 provides for an employees' retirement plan, supplementary medical insurance, Ontario Health Insurance, group life insurance plan, total disability insurance and the university dental plan. Those benefits (which will hereinafter be referred to as "fringe benefits") are available, of course, to the Grievor; they have not, however, been made available to the Grievor's same sex partner, Mr. Krawczyk. Mr. Goldblatt, on behalf of the Grievor, points out that there is nothing in Article 27 which even refers to a "spouse". We must point out, however, that the fringe benefits provided for under Article 27 of the Collective Agreement are for the benefit of employees and their dependants. One of the appendices attached to the Agreed Statement of Facts (Exhibit B) contains the definition of "dependent" as it appears in the policy of the insurer, the Great West Life Assurance Company and the definition of "dependent" reads as follows:

(8) "Dependent" means

(a) the employee's spouse, where spouse means

- (1) the person named as beneficiary in the employee's application for insurance if the relationship of such beneficiary to the employee has been indicated as "spouse", whether such person is the employee's legal spouse or his common-law spouse, or
- (11) in the absence of such beneficiary designation, the person lawfully married to the employee, or
- (111) in the absence of both (i) and (ii) above, a person of the opposite sex whose relationship to the employee is common-law spouse;

The term "common-law spouse" means a person who has resided with the employee for a period of at least one year in a common-law relationship which shall be defined as a relationship wherein two persons of the opposite sex cohabit as if husband and wife and whereby there is a mutual agreement between such persons that said relationship is a permanent relationship, exclusive of all other such relationships.

(Underlining added)

Entirely aside from the question as to whether Article 27 includes by definition a "spouse", counsel for the Grievor raises a more important point. In a written submission filed by him at the Board's request he summarizes his legal position as follows:-

"It is the union's position that the grievor, Jim Carleton, has been denied benefits under the collective agreement solely because of his sexual orientation. There is no dispute that all of these benefits would be made available to the grievor and his partner if they were engaged in a heterosexual relationship. The denial of these benefits is contrary to the clear intent and effect of Article 5 of the collective agreement which requires, inter alia, that benefits be provided to all employees without discrimination on the basis of sexual orientation.

Article 27 in respect of health benefits obligates the employer to secure the insurance and to pay the appropriate amount in order to provide the benefits and the benefit levels agreed upon between the parties. It is the union's position that, in light of Article 5, these benefits are to be provided to the grievor on a non-discriminatory basis."

The point is made on behalf of the Grievor that coverage for the fringe benefits is in reality on a family basis and that the Grievor is discriminated against, contrary to Article 5 of the Collective

Agreement, by withholding those fringe benefits from the Grievor and Mr. Krawczyk in the familial sense. Counsel for the Grievor makes the argument that since it is accepted that under Article 27, the employer is paying premiums for all heterosexual employees and their live-in partners and families, the refusal to do the same for homosexual employees is a clear violation of Article 5 of the Collective Agreement.

In effect, we are being asked to change the coverage respecting the fringe benefits by extending them to same sex partners. Article 27.04 of the Collective Agreement addresses itself to the question of making changes to certain of the fringe benefits. Article 27.04 reads as follows:-

"27.04 No changes shall be made to the Group Life, Supplementary Medical Insurance, and Total Disability plans except as a result of negotiations between the Employer and the Union or as may be required by law."

(Underlining added)

We have been told that the insurance plans have been in effect since at least 1982. Counsel for the Employer confirms, and it is common ground, that the parties have not agreed to change the coverage beyond its present limits at the bargaining table. Since, under Article 27.04, changes to the plans may be made only either as a "result of negotiations" -- which has not occurred -- or as may be "required by law", this brings us directly to the central core of the Grievor's case. Counsel for the Grievor contends that a proper application of the law requires that the application of the fringe benefits under Article 27 must be changed.

It is urged upon this Board that what is involved in this case is a fundamental question relating to the protection of human rights and dignity. It has also been argued before us that when a statute makes legislative provision for matters which impinge on the issues in dispute before an arbitrator, the arbitrator must take that law into account and must apply it in disposing of the issues under arbitration; in other words, an arbitrator has the power, indeed is required, to go beyond the express terms of a Collective Agreement in dealing with relevant provisions of a statute. We were referred to McLeod et al v. Egan et al, (1974) 46 D.L.R. (3d) 150 which is a judgment of the Supreme Court of Canada. In that case the late Chief Justice Laskin said the following at page 152:-

In so far as *Re Ford Motor Co. of Canada Ltd. and Int'l Union, United Automobile Workers of America et al.* (1971), 22 D.L.R. (3d) 151, [1972] 1 O.R. 36, would apply the same test to the construction of a statute called for in a grievance arbitration as to the construction of the collective agreement itself under which the grievance arises, I would hold it to be wrong. No doubt, a statute like a collective agreement or any other document may present difficulties of construction, may be ambiguous and may lend itself to two different constructions neither of which may be thought to be unreasonable. If that be the case, it none the less lies with the Court, and ultimately with this Court, to determine what meaning the statute should bear. That is not to say that an arbitrator, in the course of his duty, should refrain from construing a statute which is involved in the issues that have been brought before him. In my opinion, he must construe, but at the risk of having his construction set aside by a Court as being wrong.

To the same effect is the judgment of the Divisional Court of Ontario in Re Queen's University and Fraser et al, (1985) 51 O.R. (2d) 140 at page 148, per White J.

The first issue before this court has to do with the remedial authority of the arbitrator. Could he grant a remedy beyond the four corners of the collective agreement when the *specified* grievance was derived from within the four corners of that agreement? The authority of *McLeod et al. v. Egan et al.*, [1975] 1 S.C.R. 517, 46 D.L.R. (3d) 150, 5 L.A.C. (2d) 336n (S.C.C.), would appear to support the jurisdiction of an arbitrator dealing with a grievance under a collective agreement to apply the provisions of a statute germane to the subject of the article or articles in the collective agreement on which the grievance is based. Thus, if art. 18 in its various parts affords benefits to members of the union at a lower standard than that afforded in s. 26(4) of the Act it would appear that the arbitrator could ignore the parts of art. 18 which offended the higher standard of the Act and fashion a remedy of the grievance derived from the statute. It appears that the arbitrator does have the remedial power above and beyond that expressly spelled out in the collective bargaining agreement. It appears further that he can enforce the provisions of the germane statute under the arbitration procedure: see *Heustis v. New Brunswick Electric Power Com'n*, [1979] 2 S.C.R. 768, 98 D.L.R. (3d) 622, 25 N.B.R. (2d) 613 (S.C.C.); see also *Re Ontario Hydro and Ontario Hydro Employees' Union, Local 1000 et al.* (1983), 41 O.R. (2d) 669, 147 D.L.R. (3d) 210 (C.A.).

We agree with and, of course, are bound by the foregoing judgments which have been subsequently followed in other judicial decisions. The legislation which is held before us as conferring rights upon the Grievor (which must be reflected in the application of the Collective Agreement between the parties hereto) is the Human Rights Code, 1981. Indeed, we are urged to conclude that the Employer, in withholding benefits in a same sex spousal-like relationship, is acting in contravention of ss. 4 and 10 of the Ontario Human Rights Code.

This brings us back again to some of our earlier remarks. A comparison of the definition of "spouse" in Article 3 of the Collective Agreement with the definition of "spouse" in subsection 9(1)(j) of

the Human Rights Code shows that both contemplate opposite sex partners. Again, "marital status" in subsection 9(1)(g) of the Human Rights Code is predicated upon "the status of living with a person of the opposite sex in a conjugal relationship outside marriage". The definition of "dependant" in the policy of the Great West Life Assurance Company is also consistent with the foregoing definitions referred to in the Human Rights Code. As we have already stated, the prohibition against discrimination based on sexual orientation as it is contained in Article 5.01 of the Collective Agreement is consistent with the nature of the prohibition provided for in sec. 4(1) of the Human Rights Code. Our repeated references to the definition sections is to indicate that we are comparing like with like and that the Human Rights Code on which the Grievor relies does not give him any additional legal rights which should be reflected in the interpretation and application of the Collective Agreement.

There is no doubt that this Arbitration Board is required to take into account the provisions of a germane statute. The Ontario Human Rights Code is such a statute. But, as we have already pointed out, the Code does not give either the Grievor or Mr. Krawczyk any rights beyond those already contained in the Collective Agreement. Put another way, there is nothing in the Collective Agreement which offends against the Human Rights Code. Members of our Board may have differing or even disparate views as to what the law ought to be but we must not use our subjective opinions as a basis for creating rights in the legal sense; if we did that we would be exceeding our

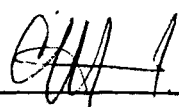
jurisdiction. Under Article 27.04 of the Collective Agreement this Board has the authority to compel changes to be made regarding the fringe benefits if such changes are "required by law", that is to say, if the provisions of the Human Rights Code lead to such a conclusion. We have already stated our opinion that the Human Rights Code does not lead to such a conclusion. In the absence of such a legal requirement we are constrained by Article 9.14(d) of the Collective Agreement that "In no event shall the Board of Arbitration have the power to alter, modify or amend this Agreement in any respect".

The judgment of Mr. Justice McRae in the Supreme Court of Ontario in Karen Andrews et al v. Minister of Health et al dated March 4th, 1988, as yet unreported, has been argued before us. In that case an application was made to the Court to require OHIP to provide dependant coverage under the Health Insurance Act, R.S.O. 1980 c.197 to homosexual couples as is available to heterosexual couples. The applicant sought a declaration that "spouse" in clause 1(c) of Regulation 452 under the Health Insurance Act and that "dependant" in sec. 1(b) and sec. 111(2) and clause 1(c) of the Regulation includes same sex partners who are cohabiting with each other. The application was brought under the Ontario Human Rights Code as well as under the Canadian Charter of Rights and Freedoms and was denied by Mr. Justice McRae. We have been advised that the judgment of McRae J. is under appeal. Such being the case, we consider that it would be inappropriate for this Board to comment upon the reasons for judgment in that case. This Board is bound by the judgment of the Supreme Court of Ontario.

For all of the foregoing reasons the Grievance herein is denied.

DATED AT OTTAWA this 10<sup>th</sup> day of June, 1988.

  
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MAURICE W. WRIGHT, Q.C.

I dissent with reasons to  
follow. 

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TINA HEAD

  
\_\_\_\_\_  
J. PETER VICE, Q.C.

Monday June 4 1990

Dawson Court Room 411  
Osgoode Hall

Before The Hon. Mr. Justice Reid  
The Hon. Mr. Justice Montgomery and  
The Hon. Mr. Justice Carleton

Canadian Union of  
Public Employees Loc. 2424  
and  
Carleton University &  
Others  
462/89

Applicant Judicial Review

Respondent  
J. Longley  
Mrs. A. McElhatch

- 10:33 J. M. Barrett presented his argument. 1:56 court recessed.
- 1:56 J. M. Barrett continued his argument.
- 1:00 Admitted for counsel. 2:19 Court recessed.
- 2:19 J. M. Barrett continued his argument.
- 2:27 Court recessed. 3:34 Court recessed.
- 3:34 J. M. Barrett continued his argument.

Judgment: Dismissal written reasons to follow.

WRITEN REASONS RELEASED ON JUNE 8 1990 AS FOLLOWS:

"AT THE CONCLUSION OF THE APPLICANT'S SUBMISSIONS WE DISMISSED THE APPLICATION AND SAID WE WOULD ISSUE BRIEF REASONS WITH THE DISMISSAL NOT TO TAKE EFFECT UNTIL THEIR RELEASE.

WE SEE NO ERROR IN THE AWARD THE CIRCUIT IS THAT MR. KRAWCZYK IS DISCRIMINATED AGAINST AS A SPOUSE IN BEING DENIED BENEFITS AVAILABLE TO OTHER SPOUSES. YET HE IS NOT A SPOUSE AT LAW, FOR THE LAW DOES NOT RECOGNIZE AMOS AS A PARTNER AS SPOUSE. THE LAW IS REJECTED IN THE COLLECTIVE AGREEMENT WHICH DEFINES "SPOUSE" AS DESIGNATED "A HUSBAND OR WIFE IN LAW OR IN COMMON LAW". IT IS REJECTED AGAIN IN THE HUMAN RIGHTS CODE WHICH DEFINES SPOUSE TO MEAN "THE PERSON TO WHOM A PERSON OF THE OPPOSITE SEX IS MARRIED OR WITH WHOM THE PERSON IS LIVING IN A CONJUGAL RELATIONSHIP OUTSIDE MARRIAGE," THOSE IS THE BASIS IN LAW OR EITHER THE AGREEMENT OR THE CODES FOR REQUIRING THE BENEFITS CLAIMED TO BE EXTENDED TO MR. KRAWCZYK.

THE APPLICATION IS DISMISSED WITH COSTS."

REID, J."

could open 10:33

James (signed) at 10:50 AM  
P.S. 10:50 AM