

Publisher's Note

2018 — Release 8

Previous release was 2018-7

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William F. Pentney

Discrimination and the Law

Contributing Editor: Catherine Mahony, LL.B.

A comprehensive review of human rights issues, this valuable reference tool contains: a legal history of discrimination in Canada; definitions of discrimination and affirmative action; an exhaustive analysis of case law - from every board of inquiry, tribunal or court, including illuminating comparisons to British and American practice; and practical insights into the administration and enforcement of human rights legislation.

What's New in this Update:

This release includes updates to the case law and commentary in Chapters 5 (Race, Colour, National or Ethnic Origin), 6 (Religion or Creed), 7A (Disability), 11 (Goods, Services, Facilities and Accommodation Customarily Available to the General Public), 12 (Employment), 13 (Rental & Purchase of Real Property), 15 (Human Rights Tribunals and Other Adjudicative Bodies), and 16 (The Charter and the Codes: Legal and Equality Rights in Human Rights Cases).

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Case Highlights

Disability — Toward a Definition of “Disability” in Canadian Anti-Discrimination Law — The Response to Disability Discrimination: One Test and Two Fundamental Concepts — The Supreme Court of Canada affirmed the existence of a duty on Quebec’s employers to accommodate disabled employees, even if the disability lands the employee within the purview of injured worker legislation — The Supreme Court was satisfied that the duty, which is contained in that province’s *Charter*, extends to become applicable when applying injured worker legislation: *Quebec (Commission des normes, de l’équité, de la santé et de la sécurité du travail) v. Caron*, 2018 CarswellQue 141, 2018 SCC 3.

Human Rights Tribunals and Other Adjudicative Bodies — Tenure and Qualifications of Members of Adjudicative Bodies — The Parties and the Allegations — The Parties — Publication Bans — Where one of the parties involved is a minor, the Tribunals will generally grant an anonymization request by rote - Some province even include legislative provisions or rules which direct the anonymization or privatization of the names of minor participants in Tribunal proceedings — Where a school or school board is involved, the Tribunal will generally not remove identifying references to same, unless to do so would compromise the identity of a minor child involved in the complaint, in which case the school and/or school district will also be anonymized, in order to protect the minor student: *K.W. v. School District P. and another*, 2018 CarswellBC 1623, 2018 BCHRT 144.

Human Rights Tribunals and Other Adjudicative Bodies — Tenure and Qualifications of Members of Adjudicative Bodies — The B.C. Human Rights Tribunal as Its Own Gatekeeper — Section 27(1)(c) — Complaints involving assessments of credibility are not well-suited to dismissal on an application under s. 27(1)(c) of British Columbia’s Code — A hearing is necessary “[w]here there are significant differences in the versions of events put forward by the parties on critical issues which cannot be resolved on the basis of corroborative affidavits and contemporaneous documentary evidence”: *Jin v. Global Chinese Press and another*, 2018 CarswellBC 1753, 2018 BCHRT 159.