



Customs and Immigration Union  
Syndicat des douanes et de l'immigration

## **Report of the National Equal Opportunity Representative CIU 16<sup>th</sup> Triennial National Convention October 2011**

### **INTRODUCTION**

It is with great pleasure that I present this report to the delegates, observers and guests of this convention. The last three years we have faced many challenges and have seen many changes which have impacted not only working conditions, but also have had profound effects on our personal lives. Human Rights and Accommodation issues have been the biggest challenge of all.

### **DUTY TO ACCOMMODATE**

Over the last three years, I have responded to over thousands of emails and phone calls from Members who were seeking accommodation and have been refused by CBSA. The lack of an established Duty to Accommodate Policy by CBSA opened the door for Regional Managers to refuse accommodation requests. That all changed with the Johnstone decision. Thanks to the perseverance of Sister Johnstone and the legal expertise of Sister Addario and Andrew Raven, CBSA was charged with wilful and reckless conduct. The Canadian Human Rights Tribunal ordered that CBSA cease discriminatory practices against Employees based on family status. They also ordered CBSA to establish written policies satisfactory to Sister Johnstone and the Canadian Human Rights Commission. CBSA has just recently released a Duty to Accommodate Policy.

### **DUTY TO ACCOMMODATE MEMBERS WITH DISABILITIES**

There are 11 prohibited grounds for discrimination. Accommodations due to a disability have been one of the most significant issues. I have spent most of my term challenging CBSA over accommodating Members with disabilities both physical and non-physical. As co-chair of the National Union Management Accommodation and Disability Committee, I have been successful in some instances of securing accommodation for Members and at the same time, have challenged CBSA to provide for, and secure policies and procedures that would enable Members to receive full support in their endeavour to return to work and to be treated with dignity and respect that they rightfully deserve. I spent a significant amount of time exploring ways for Members who have a non-physical disability due to alcohol, gambling and chemical abuse to receive the treatment needed without suffering a financial burden. CBSA's response to this was to extend sick leave if needed and offer EAP and a few counselling sessions available through Sun Life. Thanks to Brother Fortin, a meeting was arranged to meet with Members of the RCMP Association and the EAP Co-ordinator of Quebec. Brother Filice

who holds the EAP Portfolio for CIU, supported my initiative and attended the meeting as well. The RCMP offer full support up to and including arranging for a rehabilitation centre, financial support and personal support during and after treatment. Ways for EAP to become more involved and take an active role will be followed up by Brother Filice. As a Member of the FB Bargaining Team, I raised this issue and asked that we explore ways of having language put in the collective agreement that would support our Members. Brother Gay, our negotiator is exploring this and also invited Sister Addario to speak to the Team about the legal aspects. CIU is committed to continuing this challenge.

## **EMPLOYMENT EQUITY**

At the beginning of my term, I, along with Labour Relations Officer Sister Randle and PSAC Human Rights Officer Allison Pilon attended National Union / Management Employment Equity Committee meetings. As co-chair of this Committee, I raised questions about CBSA's Employment Equity Plan and Duty to Accommodate and to be provided with an update on the Canadian Human Rights Commission Audit. I raised concerns that the MMPI Test, the psychology test given to Officers prior to Firearm Training was culturally biased. Each question was answered with "we'll get back to you". CBSA indicated that due to budget restraints, the Employment System Review was put on hold. This meeting was in June of 2009 with the next meeting scheduled for November. The November Meeting was cancelled. After nine months of requesting a meeting, CIU was informed in January 2011 that CBSA decided to discontinue this Committee without Union consultation and to form a new Committee (National Employment Equity Advisory Committee (NEEAC)). I immediately sent an email to CBSA Vice- President Camille Therriault-Power advising her that these actions were contrary to the Employment Equity Act citing section 15 of the Act, which states that the Employer must consult with the Bargaining Agent regarding Employment Equity. A second letter had to be drafted reiterating our position and I am pleased to report that CBSA reorganized the NEEAC structure to include Union collaboration on all Employment Equity matters.

## **NATIONAL EMPLOYMENT EQUITY ADVISORY COMMITTEE**

The first meeting I attended in June, topics discussed included proactive recruitment, outreach practises specifically targeting Aboriginal Peoples, Persons with Disabilities, and Visible Minorities and ways to narrow the employment gap. Self-identification for members with disabilities was a topic of concern. The CHRC Audit was discussed and was reported that the CHRC would be closely monitoring the EE Plan with regards to implementation and representation put forth by CBSA. The Terms of Reference for NEEAC were edited to include involvement of Bargaining Agents.

## **EOC COMMITTEE**

Over my term, I have sat on the PSAC Equal Opportunity Committee. I have reported at CIU Board of Directors meetings, the results of the EOC Meetings. Currently the EOC has gone through restructuring and will take on new faces and new mandates when reconvened. Thank you to Sisters Janina Lebon, Francine Stuart, and Brother Lovegrove, who sat on the CIU EO Committee and helped bring forth valuable information and training sessions to the National Executive and Board of Directors.

## **BONA FIDE OCCUPATIONAL REQUIREMENT**

One of the greatest challenges in my term has been the bona fide occupational requirement (BFOR) for Officers to complete CDT and or Arming Training as a requirement for Officers to perform their duties. To recap the events up to the present, after the Coupal hearing, the Courts tasked CBSA to undertake an internal review of the duties of an Officer, and site visits to be conducted. The guiding principles for this review was to work in good faith and to be in full consultation with the Union. Specifically, the review will consider what duties require Officers to be proficient in CDT and in the use of the Firearm. In cases where CDT and Arming proficiencies are required, the review will consider job re-bundling, team work, modification of existing duties, non-site specific duties (cpic, canpass, targeting), workplace restructuring and the double up initiative. The review will include an analysis of all costs associated with the alternatives, reviewed by the Union and verified by an independent third party. Suffice it to say, no consultation took place, and very few of the instructions from the Court were followed. Next was the retaining of Richard Grounds (independent third party reviewer). Site tours followed, Grounds wrote his findings and then November 10, 2010, CBSA released to its Employees, that it was a bona fide occupational requirement for Officers to be tooled and/or armed. There was never any consideration given to re-bundling of duties, restructuring worksites and no consultation with the Union leading up to this statement. There was an immediate challenge to the Public Service Labour Relations Board by the Union.

## **BFOR COMMITTEE**

This Committee was struck immediately and tasked to review the Grounds Report and to present any challenges. No easy task! The Grounds report was over 500 pages and broken down to different modes of operation, discrimination (gender, age, etc), medical assessment (cat.III). The Committee sat twice along with LRO Sister Laurel Randle, Sister Addario and Brother Morgan Gay. Challenges were raised and forwarded to legal counsels. It was quite a challenge, but thanks to Sister Gagnon, Sister Hughes, Sister Neumann, and Brother Milligan, we were able to complete the task. Finally after 2 years, the case will be presented at a Public Service Labour Relations Board Hearing starting October 31 until November 4, 2011. The decision of this Board will have long term effects on all BSO's not only the one's currently without tools. We are all one heartbeat away from needing an accommodation.

## **CONCLUSION**

I would like to take this opportunity to thank the National Executive, the Board of Directors, the CIU Labour Relations Officers, Office Staff, PSAC Human Rights Officers, and PSAC Legal Council Sister Lisa Addario. Thank you to Sister Laurel Randle for her sound advice and for her involvement at CBSA Committee meetings. A special thank you to our Members who have stood strong and taken on the challenges. I have truly enjoyed the privilege of serving the membership, entrusting me to be your voice, and for the strong support I have received from all. There are still many issues we need to address, but I am confident that if we stand together, we are an unbeatable team!

This report is hereby respectfully submitted,

A handwritten signature in cursive script that reads "Karen Church".

Karen Church  
National Equal Opportunities Representative