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IN THE MATTER OF THE *HUMAN RIGHTS CODE*
R.S.B.C. 1996, c. 210 (as amended)

AND IN THE MATTER of a complaint before
the British Columbia Human Rights Tribunal

B E T W E E N:

Shao Lee

COMPLAINANT

A N D:

A Better Life Dog Rescue Society and Maureen Pickell and Janet Olson

RESPONDENT

REASONS FOR DECISION
APPLICATION TO DISMISS: Section 27(1)(c)

Acting Chair:

Bernd Walter

On His Own Behalf:

Shao Lee

On Behalf of the Respondent:

Janet Olson

INTRODUCTION

[1] Shao Lee filed a complaint against the Respondents, A Better Life Dog Rescue Society (the “Society”), Maureen Pickell and Janet Olson, alleging discrimination in the area of services, on the basis of religion and mental disability contrary to s. 8 of the *Human Rights Code*, because his application to adopt a dog was denied. The Respondents deny that Mr. Lee’s rejection was based on religion or mental disability and say there was no discrimination.

[2] The Society and the individual Respondents together have applied to dismiss the complaint under s. 27(1)(b),(c) and (d) of the *Code* which reads:

27 (1) A member or panel may, at any time after a complaint is filed and with or without a hearing, dismiss all or part of the complaint if that member or panel determines that any of the following apply:

...

- (b) the acts or omissions alleged in the complaint or that part of the complaint do not contravene this *Code*;
- (c) there is no reasonable prospect that the complaint will succeed;
- (d) proceeding with the complaint or that part of the complaint would not
 - (i) benefit the person, group or class alleged to have been discriminated against, or
 - (ii) further the purposes of this *Code*;

[3] I have determined that the application is most conveniently dealt with under s. 27(1)(c).

BACKGROUND

[4] The following background is provided for context. I make no findings of fact.

[5] Mr. Lee says that on October 7, 2009, Maureen Pickell, on behalf of the Society, via e-mail, rejected his application to adopt a dog.

[6] Mr. Lee also says he addressed any “suitability” concerns raised in the Respondents’ communication. He therefore believes he was rejected on grounds of “political and spiritual beliefs” which he disclosed in his application to adopt, because of

his “work as an anti-war and anti-racism activist”. He says that his application also contained statements that he believed that the dog he was seeking to adopt was the reincarnation of a dog he had previously owned.

[7] Mr. Lee says that on October 30, 2009, he contacted the Respondent, Janet Olson, a volunteer with the Society, who told him he had been rejected due to inappropriate views expressed in his application. He says she suggested that he was viewed as mentally unstable. On November 2, 2009, Mr. Lee says Janet Olson stated in writing that his beliefs constitute a mental disability, further demonstrating the Society’s prejudice. On the basis of this communication, Mr. Lee concludes that he was discriminated against because of his “political and spiritual beliefs”.

[8] Accompanying his amended complaint, Mr. Lee submitted the results of a polygraph examination performed in April 29, 2010, conducted in order to “determine whether you were being truthful in respect to your interactions with Janet Olson”. I consider this document self-serving, non-probative and entirely irrelevant to this decision.

[9] Janet Olson filed a Response alleging that Mr. Lee’s decision to adopt the specific dog in question was based on a home check which indicated that Mr. Lee could not meet this young, energetic animal’s need for frequent exercise, socialization and mental stimulation. She says that the dog’s then foster caregivers confirmed these needs and the home check determined that Mr. Lee would not be able to provide the dog with this “active lifestyle”. She goes on to say that Mr. Lee’s deemed unsuitability for this particular dog was based on his “nocturnal and reclusive” lifestyle, in which he works all night, sleeps during the day and rarely leaves his home. The Society did not consider Mr. Lee’s solution of hiring a dog walker, three times a week, and throwing a ball in the park a few times in the afternoon, sufficient to satisfy the dog’s “physical and emotional needs”. Ms. Olson also indicates that the Society was prepared to consider Mr. Lee for a less active, less social dog, but she says that he declined the offer.

[10] Ms. Olson denies Mr. Lee’s political or social beliefs played any role in the rejection of his adoption application. She says the Society has no interest in an

applicant's religion or political beliefs and that these are irrelevant in its assessment of an applicant's suitability.

[11] Ms. Olson goes on to state that, in refusing to accept the Respondent's decision, Mr. Lee has relentlessly called and e-mailed to the point of harassment, about a dog he has in fact never actually met.

[12] In her Response, Maureen Pickell adds that Mr. Lee's application indicated he was not able to walk or run for long periods of time, that he seldom left his apartment, and that his application was rejected only in respect of a specific dog.

[13] Janet Olson filed an application to dismiss Mr. Lee's complaint on behalf of all Respondents. As part of the application to dismiss, she provided a copy of an e-mail to Mr. Lee, (who is addressed as "Hsing"), dated October 7, 2009, which clarifies the reasons for rejection of his application for the particular dog. In closing, it confirms that the Society would be happy to consider Mr. Lee's home for a different dog.

[14] Mr. Lee filed a voluminous Response to the Application to Dismiss. He accuses Maureen Pickell and Janet Olson of lying. He demands they submit to polygraph tests as he has done. He argues he has been discriminated against and that the Respondents' explanations are but a "pretext" to disguise their discriminatory actions. He denies the characterization of his lifestyle put forth by the Respondents, and alleges that all concerns about the suitability of his home were fully addressed by him.

ANALYSIS

[15] In considering all of the material filed, I note frequent reference in Mr. Lee's material to his "political" views or beliefs. Mr. Lee's complaint was filed under s. 8 and it only refers to grounds of religion and mental disability. Section 8 does not include as a prohibited ground of discrimination "political belief". His complaint is therefore not considered on that basis in the context of this decision: See *Stephen v. B.C. (Ministry of Children and Family Development) et al*, 2006 BCHRT No. 41, para 58.

[16] Although the Society has applied to dismiss Mr. Lee's complaint under s. 27(1)(b)(c) and (d) of the *Code*, in my view it is most effectively dealt with under s. 27(1)(c).

[17] On an application to dismiss pursuant to s. 27(1)(c), the Tribunal determines, after considering all of the material before it, whether there is no reasonable prospect that the complaint will succeed: *Bell v. Dr. Sherk and others*, 2003 BCHRT 63, para. 28; *Wickham and Wickham v. Mesa Contemporary Folk Art and others*, 2004 BCHRT 134, paras. 11-12. This approach has been affirmed by the British Columbia Court of Appeal in both *Berezoutskaia v. British Columbia (Human Rights Tribunal)*, 2006 BCCA 95, paras 9 and 27, and *Gichuru v. British Columbia (Workers Compensation Appeal Tribunal)*, 2010 BCCA 191, para. 31, leave to appeal to the Supreme Court of Canada denied.

[18] Mr. Lee's application to adopt the specific dog in question was filed on September 22, 2009. It was rejected following a "home check" on October 7, 2009. He says he "suspected" he was being rejected due to political and spiritual beliefs disclosed in his original application.

[19] There is no information in the notice of rejection that it was in any way based on either religion or mental disability. Jan Olson does not refer to Mr. Lee's mental stability until a month later, in a November 7, 2009 e-mail, written after he had initiated a barrage of, at times, bizarre, correspondence.

[20] The Society's process appears premised or founded on the common sense notion of matching a particular animal to the most suitable home, in other words on "the best interest of the individual dog". Mr. Lee's complaint appears to be based on an understanding that, by applying to adopt a specific dog, he in fact has a right to that dog.

[21] Mr. Lee's belief, that he is entitled to the specific dog he applied to adopt would, in operational terms, render the entire application and "home check" process redundant; simply a matter of first come first served. In my view this approach is antithetical to any concept of assessment of suitability, and would vitiate the ability to ultimately reject any, even the most patently unsuitable, applicant. Based on the material filed, I consider Mr.

Lee's complaint, that, in being denied the specific dog in question, he was discriminated against, speculative at best.

[22] In the final analysis, Mr. Lee was not rejected. His application to adopt was in fact met with interest. His home was considered suitable for a different dog, whose temperament and energy was, rightly or wrongly, considered a better match for Mr. Lee's own description of his lifestyle and activity levels.

CONCLUSION

[23] On the basis of the materials filed, I have determined that there is no reasonable prospect that Mr. Lee's complaint will succeed. The application to dismiss the complaint is granted.

Bernd Walter, Acting Chair