



I've been the victim of racism

You've been the victim of vexatious racist remarks. What can you do to obtain redress?

THE FACTS

A black family rents an apartment in a duplex. The family's apartment is in the upper duplex and the owner lives in the lower duplex. During the evening of August 2, 2002, while the family was having some friends over, the owner suddenly went out on her balcony and started hurling racist comments at her tenants. She also repeated those comments subsequently on different occasions when the family was having relatives over. As a result of those events, relations between the owner and her tenants deteriorated seriously. Then tenants then decided to file a complaint with the Commission des droits de la personne et des droits de la jeunesse. On the family's behalf, the Commission sued the owner before the Human Rights Tribunal, seeking moral and punitive damages for the family on the grounds that the owner had infringed their right to be treated equally, without discrimination based on their race or skin colour. That right is protected under the Charter of Human Rights and Freedoms. The owner's defence was that her comments were the result of her uncontrolled emotional reaction due to a combination of events that she lived through in the summer of 2002, allegedly due to the actions of her tenants.

THE ISSUE IN DISPUTE

Were the tenants victims of discrimination based on race or skin colour? Did the owner have a valid defence?

THE JUDGMENT

The Tribunal allowed the action brought on behalf of the complainants.

THE REASONS

The Tribunal had to decide whether or not the owner's racist comments infringed the family's dignity. The Tribunal ruled that her comments did amount to an attack on their dignity and constituted unfair treatment based on characteristics that have nothing to do with the requirements, abilities or merits of being a tenant. Moreover, the landlord's anger cannot under any circumstances justify or excuse her comments. There is no prohibition against verbally expressing your dissatisfaction with a person's behaviour, but the Charter prohibits doing so on the basis of personal characteristics that have nothing to do with the actual conflict. The owner's racist remarks infringed the tenants' right to have their dignity respected. The Tribunal awarded them \$1,000 in moral damages for each complaint, and \$1,000 in punitive damages because their landlord had unlawfully and intentionally violated a right protected by the Charter.

References

Commission des droits de la personne et de la jeunesse v. Lamarre (December 15, 2004), Montréal 500-53-000210-045, J.E. 2005-334 (Human Rights Tribunal).

Charter of Human Rights and Freedoms, R.S.Q. c. C-12, sections. 4, 6, 10, 12 and 49.

The judgement discussed in this article was rendered based on the evidence submitted to the court. Each situation is unique. If in doubt, we suggest you consult a legal aid lawyer.

Contact us

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