

Court File No. T-264-94

IN THE FEDERAL COURT OF CANADA
TRIAL DIVISION

BETWEEN:

SHERRIE ANNE REED

Plaintiff

-and-

HER MAJESTY THE QUEEN

Defendant

STATEMENT OF CLAIM

(filed on the 10th day of Feb, 1994)

1. The Plaintiff, Sherrie Anne Reed, resides in the City of Vancouver, in the Province of British Columbia. She is a former enlisted member of the Canadian Armed Forces, and as such was in the service of her Majesty the Queen.

HISTORY OF THE PLAINTIFF'S SERVICE IN THE CANADIAN ARMED FORCES

2. The Plaintiff joined the Canadian Armed Forces on the 15th of July, 1985 as a Private. She attended basic training at Canadian Forces Base ("CFB") Cornwallis in the Province of Nova Scotia.
3. After finishing her basic training, the Plaintiff spent six months at CFB Borden and obtained her Trade Qualifications 3 (TQ3). She was employed as a weapons technician and in early 1986 was posted to CFB Kingston.
4. At CFB Kingston, the Plaintiff was employed in the weapons shop. The shop carried out all of the basic maintenance on all weapons and supplied all weapons for the CFB Kingston, the Royal Military College and the other military establishments in the area.
5. The Plaintiff's position carried great responsibility. Although her rank was that of a Private, the Plaintiff was carrying out the equivalent of a corporal's job from August of 1986

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to her dismissal. The weapons shop was originally staffed by a Sergeant, a Master Corporal and a Corporal; the Master Corporal and the Corporal were transferred, and after August of 1986, they were not replaced. In addition, the Plaintiff had been granted secret security clearance.

6. In January of 1988, the Plaintiff obtained her next level of trade qualifications, being TQ4, after a six week training course at CFB Gagetown in October of 1987.

7. The Plaintiff states that she would have been a corporal by the end of 1988. Because of her weapons experience, she was qualified to accelerate her next level of trade qualifications status, being TQ5. She expected to have these qualifications by the end of the summer in 1988.

INVESTIGATION BY THE SPECIAL INVESTIGATIONS UNIT

8. In August of 1987, the Special Investigations Unit, (the "S.I.U."), began to investigate the Plaintiff on the suspicions that she was engaging in a homosexual relationship. On or about September 17, 1987, the Plaintiff was interviewed by the S.I.U. and although she declined to give a voluntary written statement, she admitted that she was engaged in a homosexual relationship.

ATTEMPT TO RELEASE THE PLAINTIFF

9. After the S.I.U. investigation in October of 1987, the Plaintiff received a notice that her release from the Forces was recommended because of "admitted participation in a homosexual activity". Her release was to take place as soon as possible under the Canadian Armed Forces Policy on Homosexuality, being Item 5(d) of the Queen's Regulations and Orders 15.01, pursuant to the National Defence Act.

THE CANADIAN ARMED FORCES' POLICY ON HOMOSEXUALITY

10. Policy 19-20 in force at the material time stated in paragraph 7 that "Service policy does not allow homosexual members or members with a sexual abnormality to be retained in the CF". In such a case, the member is to be released under item 5(d) of Q.R.& O 15.01.

11. This policy had been modified in February of 1987 to provide that if a member of the Forces refused to take an item 5(d) release, the member would be retained "with career restrictions" while the policy was being reviewed. Career restrictions meant that the Plaintiff was not eligible for further training, promotions, or any conversion of her current terms of service.

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THE GRIEVANCE

12. The Plaintiff refused to accept this release and submitted an application for redress of grievance.

THE FAILURE TO RENEW THE PLAINTIFF'S CONTRACT

13. Enlisted members of the Armed Forces are initially enrolled for a three-year service contract. At the end of three years, contracts are renewed on an indefinite basis.

14. When the Plaintiff's contract came up for renewal in July of 1988, she was advised that she was not being recommended for further re-engagement, and her contract was terminated under item 5(c) of the Q.R. & O.15.01.

15. The Plaintiff states that the reason for the non-renewal of her contract was her homosexuality.

THE CHARTER OF HUMAN RIGHTS AND FREEDOMS

16. The Plaintiff states that the unemployment practices and policies of the Defendant in the administration of the Canadian Armed Forces are actions that are subject to the application of the Charter.

17. The Plaintiff further states that the policy of the Forces with respect to homosexuality violates the rights and freedoms guaranteed to the Plaintiff under the Charter, including her guarantee of equality before and under the law, her right to equal protection and benefit of the law without discrimination, her right not be subjected to cruel and unusual treatment or punishment, her freedom of thought, belief, opinion, and expression and her right to freedom of association.

THE PLAINTIFF'S EMOTIONAL DISTRESS

18. The Plaintiff has suffered and continues to suffer emotional distress and humiliation because of the conduct of the Forces and the disregard for her rights and freedoms.

PUNITIVE DAMAGES

19. The conduct of the Defendant towards the Plaintiff shows a flagrant and callous breach of the Plaintiff's rights and freedoms. The Plaintiff states that she is entitled to punitive and exemplary damages because of this.

RELIEF CLAIMED

20. The Plaintiff therefore claims:
- (a) moving costs, damages for lost wages and benefits in the amount of \$1,000,000.00;
 - (b) general damages in the amount of \$1,000,000.00 for the denial of the Plaintiff's rights under the Canadian Charter of Human Rights and Freedoms including a denial of her equality rights, her right to freedom of thought, belief, opinion and expression, and her right to liberty;
 - (c) damages for emotional distress in the amount of \$250,000.00 for the adverse effects the Plaintiff has suffered and continues to suffer as a result of the Defendant's denial of her constitutional rights;
 - (d) punitive and exemplary damages in the amount of \$250,000.00;
 - (e) prejudgment interest on the award of damages from October of 1987 to date of the payment of judgment;
 - (f) a declaration that the policies of the Forces with respect to homosexuality and homosexuals are contrary to the Canadian Charter of Human Rights and Freedoms;
 - (g) her costs of this action on a solicitor and client basis;
 - (h) such further and other relief as to this Honourable Court may seem just.

NOTICE TO DEFENDANT

YOU ARE REQUIRED to file in the Federal Court of Canada, at the City of Ottawa, or at a local office, your Defence to the within Statement of Claim within thirty (3) days (or such other time as may be fixed for an Order for Service. Ex Juris or other special Order) from the service thereof in accordance with the Rules of Court.

If you fail to file your Defence within the time above limited, you will be subject to have such Judgment given against you as the Court may think just upon the Plaintiff's own showing.

NOTE:

- (1) Copies of the Rules of Court, information concerning the local offices of the Court and other necessary information may be obtained upon application to the Registry of this Court at Ottawa - telephone 922-4238 - or at any local thereof.
- (2) This Statement of Claim is filed by Beard, Winter, 150 King Street West, Suite 900, Toronto, Ontario, M5H 2K4 - telephone (416) 593-5555 - solicitors for the Plaintiff.

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DATED AT TORONTO, this 9th day of February, 1994.

"JOHN A. OLAH"

John A. Olah
Solicitors for the Plaintiff

BEARD, WINTER
Suite 900
150 King Street West
Toronto, Ontario
M5H 2K4

(416) 593-5555

TO: HER MAJESTY THE QUEEN
c/o Deputy Attorney
General of Canada
Justice Building
239 Wellington Street
Ottawa, Ontario
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Court File No.

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STATEMENT OF CLAIM

SERVICE OF A TRUE COPY HEREOF
SIGNIFICATION DE COPIE CONFORME-

Admitted to 21st day
Address to of February 1994

Lise Beaud

pour 3:10 pm
J.M.C. J.C.
Deputy Attorney General of Canada
Sous-procureur général du Canada

BEARD, WINTER
Barristers and Solicitors
150 King Street West
Suite 900
Toronto, Ontario
M5H 2K4

John A. Olah, Esq.
(416) 593-5555

Solicitors for the Plaintiff

I HEREBY CERTIFY that the above document is a
true copy of the original filed of record in the Registry
of the Federal Court of Canada the 11 day

of February A.D. 1994

Dated this 11 day of February 1994

Maria Rao
Registry Officer

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