



Department of Justice / Ministère de la Justice
Canada / Canada

Ottawa, Canada
K1A 0H8

PA

BS

Room 536, Justice Building
239 Wellington Street
(Kent & Wellington Streets)

Telephone: (613) 957-4868
Telecopier: (613) 954-1920

Our File No.: 317679

May 27, 1994

VIA FACSIMILE (416) 593-7760 AND MAIL

Beard, Winter
Barristers & Solicitors
Sun Life Tower
900 - 150 King Street West
Toronto, Ontario
M5H 2K4

Attention: John Olah

Dear Sir:

**Re: Her Majesty the Queen v. Sherrie Anne Reed
Court File No. T-264-94; Your File No. 74225-1**

Further to our recent telephone discussions and your letter of May 24th, 1994, I wish to advise as follows with respect to discovery issues:

1. The deponent of the Crown's affidavit will be Mr. Karl Wenek, who currently holds the position of Section Head-Equality Rights, Directorate of Personnel Policy and Conditions of Service.
2. The Crown will be producing the following documents:
 - (i) Documents produced in the Dwyer and Douglas litigation relating to section 15 and section 1 issues;
 - (ii) Answers to Undertakings provided in the Dwyer and Douglas litigation;

.../2

Canada

003524

- 2 -

- (iii) Transcripts of discovery of Dan Munro in the Dwyer and Douglas discovery relating to section 15 and section 1 issues;
- (iv) Documents produced in the Poirier litigation with respect to section 1 and section 15 issues (some of these documents are the same as those produced in Dwyer/Douglas);
- (v) Transcript of Examination for Discovery of George Logan with respect to section 15 and section 1 issues in Poirier;
- (vi) Documents retrieved and draft answers to undertakings prepared but never provided because of subsequent settlement in Poirier litigation;
- (vii) Documents from the Plaintiff's Performance Evaluation Bank and Military Personnel Bank.

It is to be hoped that I will be in a position to provide you with the draft Affidavit of Documents as well as with copies of the documents in question some time during the week of May 30th. These documents are currently being copied and I am having three sets made for the purposes of the Reed Litigation.

With respect to discovery, the Crown is not, in the circumstances, prepared to produce General DeChastelaine, the Chief of the Defence Staff, for the purposes of discovery. General DeChastelaine has no particular knowledge with respect to the circumstances surrounding your client. His responsibilities are such that discovery would be an unwarranted imposition on his time. With respect to general issues regarding the development of the Policy with respect to the recruitment and retention of homosexuals and changes to that Policy between 1985 and 1992, you already have the extensive discovery evidence of Mr. Munro and Mr. Logan, both of whom were individuals intimately involved in the review of the Policy. Mr. Logan, in particular, was involved during the period of time immediately prior to the decision in 1992 to rescind the Policy.

The Crown has designated for discovery the aforementioned Karl Wenek. For your reference I would advise that Mr. Wenek served in the Personnel Research and Development Directorate from 1983 to 1985 and from 1989 to 1990. During the latter, he did research for Mr. Logan relating to behavioral science issues relating to the former exclusionary Policy. For your reference, I am enclosing herewith a copy of Mr. Wenek's resume. He will, of course, be making the appropriate inquiries so as to fully inform himself as to the matters in issue in this Litigation. All of these matters have already been explored quite thoroughly during the two prior discoveries. The Crown is, as discussed, prepared to adopt those discoveries for the purposes of this Litigation.

.../3

003525

- 3 -

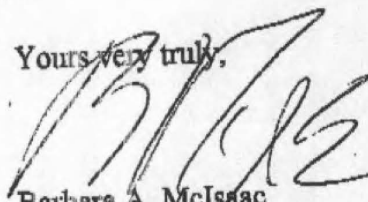
As I have previously advised you, I shall be out of the country from approximately the 15th of June through the end of July. During that period of time, my colleagues, Brian Saunders (957-4865) and Anne Michaud (941-2345) will be available to deal with any matters which might arise in respect of this Litigation.

I look forward to hearing from you as to whether you are satisfied to examine Mr. Wenek for discovery. Please let me know immediately if it would be your intention to bring a motion with respect to production of the Chief of the Defence Staff as the Crown's representative for the purposes of discovery.

I understand that you wish to arrange discoveries for some time in September. As I have advised you I shall be leaving the Department of Justice at the end of August but, in the meantime, please let me know when you would like to arrange the discoveries and I shall make arrangements to ensure that whoever is taking over the file gets in touch with you in order to confirm dates.

I look forward to hearing from you.

Yours very truly,



Barbara A. McIsaac
General Counsel
Civil Litigation Section

BM/dh
Encl.

c.c. Major Randy Smith - via facsimile

003526

AGC-2339_0003