

CN drops human rights appeal for two moms, continues appeal of a third

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Denise Seeley, right, and her daughters Lexi Byers, centre, and Brooklyn Byers are photographed in Jasper, Alta., on Sept. 29, 2010. In September, Seeley won her case with the Canadian Human Rights Commission against Canadian National (CN) Rail.

Photograph by: Alisen Charlten, Supplied, edmontonjournal.com

EDMONTON — CN Railway has stopped fighting a human-rights decision last fall that ordered the company to give two women their jobs back, but CN will continue its appeal related to a third woman, a spokesman has confirmed.

“At this point, CN is continuing its appeal of the Canadian Human Rights Tribunal decision with regards to Denise Seeley, but it has withdrawn its appeal with regard to Cindy Richards and Kasha Whyte, and we have no further comment at this time,” CN spokesman Mark Hallman said Friday.

The legal battle between the women and their railroad employer started after CN assigned the women in 2005 to work temporarily in Vancouver. All three had young children and said they were unable to uproot their families and leave. They lost their jobs.

A Canadian Human Rights Tribunal ordered the railway in September to reinstate the Jasper-based conductors.

The ruling said CN's actions were wilful and reckless and ignored the company's discrimination policy.

CN then applied to have the Federal Court of Canada review the ruling. CN argued the ruling that recognized special rights for employees with families was in error and makes it difficult for CN to properly manage its workforce.

This month, CN notified the court it is no longer seeking a review of the human-rights decisions related to Richards and Whyte.

Whyte told The Journal she has been back at work as a freight-train conductor for CN since about October.

"I'm just very relieved that part of it is over," Whyte said Saturday of CN's Federal Court application. "I'm loving being back to work."

For Seeley, however, the fight continues.

"I'm disappointed and it's tough to feel alone now," said the mom of two daughters, ages seven and 12.

"Emotionally, it's exhausting, really. It's a good cause so it keeps me going."

Seeley is not back at work yet and said CN is claiming she may have a medical condition dating back to 1994 that prevents her from working as a conductor. Seeley said she fainted once at home about 16 years ago and reported the incident to CN at the time. She continued to work for CN as a conductor for many years after that. Seeley said she received her medical clearance within days of a medical exam in 2005 when CN told her she would have to go to Vancouver.

Now, CN is expressing concerns the loss of consciousness indicates a health condition, she said.

"They've had this information for all these years. This has never, never been an issue.

Nothing current has happened. This is old," Seeley said.

"I am perfectly fit and healthy."

Seeley said she still wants to work for the company despite the lengthy legal fight. She said she loved her career as a railroader.

Now, Seeley is preparing for the Federal Court proceedings and viewing her situation as “an incredible learning experience.” Seeley said she feels her case is important to all families, not just hers.

“This is about whether family deserves some sort of protection in our laws or not. That’s what this is all about.”

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