

CN wants review of human rights decision

BY DARCY HENTON, EDMONTONJOURNAL.COM OCTOBER 30, 2010



A CN train.

Photograph by: Courtesy, CN, Herald Archive

Canadian National is asking the Federal Court of Canada to undertake a review of a landmark human rights decision that recognized special rights for employees with families.

The railway was ordered by a Canadian Human Rights Tribunal last month to reinstate three Jasper-based female conductors that it had fired in 2005 for refusing to accept a transfer of undetermined length to Vancouver.

The women, two of whom were single moms, all had small children at the time.

The ruling required CN to accommodate the women provided it was reasonable to do so and didn't pose undue hardship for the railway.

While the ruling is not binding on other panels or other jurisdictions, a tribunal lawyer said it will certainly be very persuasive and a university law professor said employers would be nervous about the implications of the decision. CN

spokesman Mark Hallman said the railway believes the tribunal erred when it ruled that employers have a duty to accommodate employees with families when it wants to send them to other parts of the country.

"CN has no issues with the three complainants who have been reinstated as conductors," Hallman said in an interview Friday. "We believe the tribunal applied the wrong test to determine employer duty to accommodate family status. We believe the precedent set makes it difficult for CN to manage its workforce effectively. We have to deploy our workforce to meet the transportation needs of our customers."

The decision dismayed the CN moms, Denise Seeley, Kasha Whyte and Cindy Richards.

"I certainly am disappointed," said Seeley, a mother of two. "I do not understand how a corporation could preach family values yet relentlessly pursue those who stood up for family values. Today is a sad day."

Seeley said she was grateful she can continue working as a conductor while the CN application makes its way through the judicial system, but if the review goes ahead she faces more legal costs.

"I'm hoping that our union will help us, as this could end up being costly, but so far haven't heard anything promising," she said.

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