

File Name: In the matter of Lindsay Jane Willow against Halifax Regional School Board and Dr. Gordon Young and John Orlando

Date of Decision: May 9, 2006

Area(s): Employment

Characteristic(s): Sexual Orientation (perceived)

Complaint: Lindsay Jane Willow was a physical education teacher at Halifax West High School. One day in September 2000, she asked a student to help her move some large equipment, and then they went to the washroom to wash their hands. On their way out, another teacher, John Orlando, saw them, and reported to the principal, Gordon Young and vice-principal Donald Clarke that there was a “suspicious incident” (implying that Ms. Willow and the student had been involved in sexual activity in the washroom) and the principal called the police reporting sexual assault. The police investigation found that nothing occurred. Ms. Willow complained to the School Board, and they advised that there had been no violation of the collective agreement, blamed the principal and police, and otherwise refused to get involved in stopping rumours that spread.

Decision: John Orlando, Gordon Young and the Halifax Regional School Board discriminated against Ms. Willow on the basis of her (perceived) sexual orientation.

Action Motivated by Stereotypes

Treatment of an individual based on negative stereotypes of a group to which they belong (or are perceived to belong), can constitute discrimination. The Board found that the mere suggestion that there had been any sexual activity between the teacher and student in that circumstance was “preposterous”, and the actions were due to Mr. Orlando’s prejudicial assumptions that Ms. Willow was a lesbian and his stereotype of gay persons as likely to seek out and exploit young people.

Duty to Ensure a Workplace Free from Discrimination and Harassment

Employers have a duty to ensure a positive work environment. The Board found that the principal overreacted by calling the police and failing to make amends and ensure that Ms. Willow, in light of the false allegation, was made to feel comfortable in the school community. The principal had an obligation to counter the perceptions created by this incident and make her feel comfortable at work; instead, he allowed those perceptions to persist and made her experience more difficult.

The School Board failed in its duty to provide a positive environment for someone perceived to be gay and was not vigilant to protect her.

Remedy:

Individual Remedies for Ms. Willow

- Letter of exoneration and apology from the Board
 - General Damages (emotional harm):
 - \$5,000.00 for false report to the police
 - \$5,000.00 for school year 2000-01
 - \$5,000.00 X 3 years Dr. Young was School Principal
 - \$2,375.00 Interest
- Total: \$27,375.00

Additionally, the Board ordered \$1000.00 to Ms. Willow’s parents for their expenses in support of their daughter, and \$2500.00 to the student involved.