

William Warren Munroe
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September 13, 2010

Minister of Citizens' Services
PO BOX 9068 STN PROV GOVT
VICTORIA BC V8W 9E2

Minister of Labour
PO BOX 9052 STN PROV GOVT
VICTORIA BC V8W 9E2

Re: Violations of the Public Service Act, Labour Code, Human Rights, Master Agreement, and Natural Justice.

Honorable Ministers, Opposition Critics, and other Interested Parties

As mentioned, I continue to request a fair, open, public hearing before an independent arbitrator / tribunal with regard for the real substance of the matters in dispute pertaining to my grievance of harassment and discrimination, including dismissal, from the Ministry of Labour and Citizens' Services.

This letter is to inform you of new evidence highlighting the facts that

- 1) the BCPSA reasoning for not allowing my discrimination / human rights grievance to proceed is unjustifiable,
- 2) testimonies were documented and used against me of which I was not aware; therefore, I was not able to offer any defense,
- 3) and the BCPSA was aware that I was pursuing a grievance when I was dismissed.

For more information please see www.wminfomatics.com/WP/home.html. For a write-up of the facts with reference to violations of the relevant Acts, Codes, and the Master Agreement, please see the letter to the LRB and Human Rights Tribunal, (June 2009) at wminfomatics.com/WP/petition/CoverLRB.pdf. Exhibits can be found at www.wminfomatics.com/WP/petition/petition.html.

1) BCPSA reasoning for not allowing human rights grievance is unjustifiable

After over a year of requesting help/mediation from the Employer, the Employer representative, (the PSA), and the Employee representative, (the GEU), to address the aggressive yelling, personal harassment, and discrimination directed towards me by the members of the Population Section of BC Stats, where I was employed as a Population Analyst with an excellent work record, I was told by Don McRae, Director of BC Stats, to file a grievance of misuse of managerial authority, December 1, 2005, exhibit 16, page 1-2.

"I am obligated to interpret the allegations as a formal complaint of misuse of managerial authority under Article 32.15 of the Master Agreement."

I raised concerns, in my reply to Don McRae, and the shop steward, Marvin Paxman, on December 5, 2005, about the accusation made by the manager of the Population Section, Dave O'Neil, against me ...

-----Original Message-----

From: Munroe, Warren LCS:EX
Sent: December 5, 2005 9:03 AM
To: McRae, Don LCS:EX
Cc: Paxman, Marvin LCS:EX
Subject: RE: Personal harassment

"Hello Don,

I have had a chance to read Article 32.15. Again thank you for letting me know how you wish to proceed with my concerns. There are two points that I wish to clarify at the outset. The Article 32.15 refers to a 30 day limit. This is not long enough to address my concerns. The events in question cover a much longer time frame. Indeed, I have been drawing attention to the problems in the Population Section for over a year. Therefore, it is necessary to include all relevant information since I started working for BC Stats.

Also there is no mention of possible motives for the harassment on the part of the manager Dave O'Neil.

I draw attention to this because Dave O'Neil accused me of having a mental problem which makes me incapable of team work. It is because of this mental disability, he contends, that my co-workers are not willing to attend meetings with me.

Indeed, my mental disability is so bad, I have been told, that my co-workers fear for their personal safety, and this is why my co-workers and the manager (Dave) have been going for coffee together without inviting me for over a year, even though I have asked many times to join them.

I contend that this assertion by the manager, that I have a mental problem, has been used to deflect attention away from his role in having created a negative work environment. When I have asked to be treated fairly, the manager has reprimanded me. When I asked for team effectiveness training my manager has said that I have a mental problem.

Regardless, I feel strongly that the manager (Dave) should not use this contestable mental problem as a reason to discredit me and to treat me with disrespect.

I have been asking for team effectiveness training with the view that it would be helpful for myself and agree it would be helpful for all of us, as I have seen how incredibly skillful facilitator's came [sic] be.

I want to make sure that it is clearly understood that my contestable mental disability has been used by my manager Dave O'Neil to discriminate against me.

This must be taken into consideration because this contention has been used to justify my continued exclusion and isolation in the section.

I therefore am making a complaint of discrimination and choose to proceed in reference to Article 1.9."

The Director Don McRae replied.....

-----Original Message-----

From: McRae, Don LCS:EX

Sent: December 5, 2005 3:27 PM
To: Munroe, Warren LCS:EX
Cc: Paxman, Marvin LCS:EX; Gore, Carol PSA:EX
Subject: RE: Personal harassment
Warren, in your e-mail of Dec 1 a number of allegations were made re Dave's misusing his authority as manager. You go on to say at the end: "My requests to be treated with civility and decency have not been heeded", indicating that you feel that the alleged abuse is current and on-going, hence the reason why I want to get to the bottom of it ASAP. However, in your response below you indicate that you want to proceed under Clauses 1.7 (Human Rights Code) and 1.9 (Discrimination). Does this mean that you are dropping your complaint of misuse of managerial authority under Article 32.14?

Comment: I never made a complaint under any Article 32.14 or 32.15.

The shop steward, Marvin Paxman, replied.....

From: Paxman, Marvin LCS:EX
Sent: December 5, 2005 4:31 PM
To: Munroe, Warren LCS:EX
Subject: RE: Personal harassment
Hi Warren, just a note regarding the attached reply from Mr. McRae,
My interpretation of the agreement would indicate that you do not need to drop the complaint of misuse of managerial authority in order to pursue a complaint under section 1.7 and follow the complaint procedure of section 1.9. Rather, if you feel that discrimination is at the heart of the matter with regard to the misuse of managerial authority, then pursuant to the 3rd paragraph of section 32.15, the resolution mechanism in section 1.9 should be used.

From the transcripts from Freedom of Information (FOI) of discussions between Public Service Agency representatives, Carol Gore and M. Charbonneau (Exhibit 16a)...

-----Original Message-----
From: Charbonneau, Michelle M PSA:EX
Sent: December 5, 2005 3:57 PM
To: Gore, Carol PSA:EX
Subject: RE: Personal harassment
BTW - I spoke with David Nixon reconfirming our brief discussion. Question: If filing a complaint under Article 1.9 i.e. Article 1.7 Human Rights, do you have to have a mental disability? He confirmed that you do...
Similar case pattern: if you file a Human Rights complaint attesting discrimination because of illness, you have to be ill.
Subject: RE: Personal harassment

December 6, 2005: At the meeting on December 6, with Carol Gore, Don McRae, and Marvin Paxman, I was told that I would have to prove that I have a mental disability to proceed with a Human Rights grievance. In summary,

I was asked by Don McRae if I could prove that I have a mental disability. I replied that I could not prove that I have a mental disability. I was told by Carol Gore that I could not proceed with a discrimination / human rights grievance.

I was told by Carol Gore that both procedures (misuse of managerial authority Article 32.12, and discrimination 1.9) are essentially the same, but that 32.15 was to be used if I could not prove that I had a mental disability.

From Carol Gores notes received through FOI, Ms. Gore wrote ...

ER Investigation Meeting
December 6, 2005
9:30 AM
BC Stats Board Room

Don: is there medical basis to disability?
Warren said no

Ms. Carol Gore goes on to state

so will proceed with 32.15 complaint

The Court of Appeals ruling regarding "perceived" disability is different.. After years of going through the adversarial procedures imposed by the BCPSA and the BCGEU, resulting in denial of a fair hearing, I asked the Executive Director, Community Legal Assistance Society about "perceived" disabilities

From: information@wminfomatics.com
Sent: June 3, 2009 11:39 AM
To: Aleem Bharmal
Subject: discrimination labour law racial slurs mental/behaviour problem dismissal
Hello Aleen,
I was told by my former Employer (BC Stats, Min of Labour and Citizens' Services), (supported by the BCPSA and accepted by the BCGEU), that I could not utilize a discrimination / harassment procedure to address accusations that I have a mental / behavioural problem, (that, apparently, made it impossible for people to work with me, making two female co-workers feared for their safety), unless I could prove that I have a mental / behavioural disorder.
Does a person who is accused of having a mental / behavioural disorder have to prove that they have a mental / behavioural disorder to utilize discrimination proceedings?
To use another example:
Does a person who is accused, harassed and dismissed, for being considered a homosexual have to prove that they are a homosexual to utilize discrimination proceedings?
Has there been a ruling on this?
Warren

I received this reply.....

From: "Aleem Bharmal" <abharmal@clasbc.net>
Sent: Wednesday, June 03, 2009 5:16 PM
To: information@wminfomatics.com
Subject: RE: discrimination labour law racial slurs mental/behaviour problem dismissal
No, you can succeed if you can prove you were discriminated against based on a "perceived" disability - this principle has also been applied to those being harrassed for being perceived as

gay (see School District No. 44 (North Vancouver) v. Jubran, 2005 BCCA 201 at para 43 & 44)).
Aleem Bharmal
Executive Director
Community Legal Assistance Society
300 - 1140 West Pender Street
Vancouver, BC V6E 4G1

After investigating my grievance, the Director decided that “the resolution would be that there would be no resolution”, (Dec. 12, 2005).

I had many questions regarding the decision and asked the shop steward to speak with the Director ...

-----Original Message-----
From: Paxman, Marvin LCS:EX
Sent: December 20, 2005 4:43 PM
To: Munroe, Warren LCS:EX
Cc: XT:Jones, Cheryl TBC:
At your request, I later met with Mr. McRae to ask some questions:
* I asked about their ruling with regard to the accusation by Dave (in the meeting [Oct 13, 2005] with Carol Gore [PSA] and Cathy McCallum [GEU]) that you were "passive aggressive". Mr. McRae said they found that that incident did not constitute a misuse of managerial authority. When Dave was questioned about it, he acknowledged the remark and said it was a comment on a behavioural problem or issue and not a mental one.

Comment: Don McRae and Carol Gore had said my grievance constituted a misuse of managerial authority. What specifically was the behavioural problem and why was I not informed of the specific behavioural problem? Why was mediation denied?

Don McRae also said (December 12, 2005) there were “near irreconcilable differences”; therefore, I asked the shop steward to ask Don McRae about advice on how to proceed without making things worse and in an effort to find positive solutions. In the December 20, 2005 email, the shop steward added...

“I also asked about any resources for counseling available to employees that management might be aware of. So far there is nothing that they are aware of that can be applied to this situation”

Comment: The Employer and the Employee representatives should have been aware of the discrimination proceedings and mediation. Indeed, they violated Article 32.15 (3) of the Master Agreement between the PSA and GEU...

“Where the allegation is based on a matter for which another dispute resolution mechanism exists, then this process shall not be utilized.”

1b) BCPSA reasoning for not allowing human rights grievance was to limit investigation and not allow incidents prior to 30 days.

The Master Agreement procedure for Discrimination grievance Article 1.9(c) states ...

If the matter is not resolved to the employee's satisfaction, then the employee will approach the first excluded level of management not involved in the matter, for assistance in resolving the issue within six months of the alleged occurrence.

Regarding my concerns about the discrimination prior to the 30 day time limit for the 32.15 process, Don McRae said that the incidences could be considered.

-----Original Message-----

From: McRae, Don LCS:EX
Sent: December 5, 2005 10:46 AM
To: Munroe, Warren LCS:EX
Cc: Paxman, Marvin LCS:EX
Subject: RE: Personal harassment

Warren, it appears that you are asking two questions:

1. Can events prior to the 30 day window noted in Article 32.15(a) (i.e. Nov 1, 2006 to Dec 1, 2006) be admitted as part of the investigation?

The answer is yes, but only if they directly relate to the event(s) that triggered the format complaint under Article 32.15, which was received on Dec 1, 2006.

From another email found in the package from FOI, of which I was unaware for many years after it was sent...

From: Charbonneau, Michelle M PSA:EX
Sent: December 5, 2005 11:37 PM
To: Gore, Carol PSA:EX
Subject: RE: Personal harassment

We can only look at incidents within the 30 day window. Don's reply is well worded but we still don't address any events outside the 30 day window - other than acknowledging that they may relate to current events.

I contend that the imposition of the use of Article 32.15, purposefully limited the time period to consider my discrimination grievance (to 30 days), while there was no time limit to the accusations made against me (from the write-up on the investigation of the interviews with my co-workers who described me as the problem).

1c) Reasonably, my grievance can be shown to have begun in March 2005 Exhibit 3.

In March 2005, I asked for a meeting with the manager, Dave O'Neil, with the shop steward, Marvin Paxman, present. I requested positive solutions to address the threat made by the manager that he would make a formal complaint against me, but that he did not have the time. (Exhibit 3, Exhibit 18a Appendix D&E, Exhibit 94a, p. 2)

The Master Agreement provides direction in Article 8.2 Step 1

In the first step of the grievance procedure, every effort shall be made to settle the dispute with the designated local supervisor. The aggrieved employee shall have the right to have their steward present at such a discussion.

I submitted a write-up to the manager and shop steward requesting a work place free of discrimination and to ...

"... turn the method of interaction from one of antagonism to something constructive..." (Exhibit 3, p. 2)

2) testimony used against me, I was not aware of, with no opportunity for defense.

Also from the shop steward (December 20, 2005)....

* I asked Mr. McRae what was meant by 'incorrect'. He indicated that in those cases, there had been a misinterpretation of an event leading to a complaint

* I asked Mr. McRae if the results of the investigation would be put in writing. He said they would not.

The package from FOI proves that the investigation was put in writing, and it has many errors and includes statements attributed to me that I did not make, as well as missing important information (pages 000162 to 000175 of the package from Freedom of Information).

Also, the write-up of the investigation cannot be used against me without me having an opportunity to view the documents as required by Master Agreement Article 10.5 (b),

"An employee shall be given a copy of any such document placed on the employee's file which might be the basis of disciplinary action", and Article 10.5 d), "The Employer agrees not to introduce as evidence in any hearing any document from the file of an employee, the existence of which the employee was not aware at the time of filing".

I continued to request work place skills courses (as suggested by Carol Gore in September 2005, Exhibit 6, p. 4) and mediation (Exhibits 12 p 3, and 16 p 4), as supported in the Labour Code and the Public Service Act ...

"The purposes of this Act are to ... (b) recruit and develop a well qualified and efficient public service that is representative of the diversity of the people of British Columbia, (c) encourage the training and development of employees to foster career development and advancement, (d) encourage creativity and initiative among employees".

Rather than having no resolution to the accusations that I made my co-workers fear for their safety, and since neither courses nor mediation were certain (see Exhibit 17), I submitted my grievance to the Deputy Minister (January 30, 2006 Exhibit 18 and 18a).

3) Coercion while grievance proceeding

In early February 2006, I was informed that because I continued with the grievance to the Deputy Minister, no work place skills courses would be allowed (Exhibit 22, 23). I asked for a transfer and reminded the Director about Ivan Fellegi's explanation of the importance Statistical Analysis, Exhibit 23a.

On February 15, 2006, a week after his return from vacation, the manager, in front of the shop steward, ordered me to close the window, gather my belongings, turn in my security pass and vacate the building, thus dismissing me before the Deputy Minister could rule on my grievance in contravention of the Public Service Act Purpose, Section (e), to

"promote harmonious relations of the government and employees and bargaining agents that represent employees in the public service."

and the Labour Code, Section 5 (1):

"A person must not (a) refuse to employ or refuse to continue to employ a person, (b) threaten dismissal of or otherwise threaten a person, (c) discriminate against or threaten to discriminate against a person with respect to employment or a term or condition of employment or membership in a trade union, (d) intimidate or coerce or impose a pecuniary or other penalty on a person, because of a belief that the person may testify in a proceeding under this Code or because the person has made or is about to make a disclosure that may be required of the person in a proceeding under this Code or because the person has made an application, filed a complaint or otherwise exercised a right conferred by or under this Code or because the person has participated or is about to participate in a proceeding under this Code".

February 16, Hand written notes from Michelle Charbonneau explain that I was told to leave the building and take my belongings. (FOI package), Exhibit 23b.

February 24, 2006, Deputy Minister's response to my grievance ..

"I do not see any evidence of "misuse of managerial/supervisory authority" on the part of Dave O'Neil. I find that the investigation undertaken by Don McRae, Director of BC Stats, with the support of Carol Gore from the Public Service Agency, and involvement of the union to be thorough and sound."

Again, the documents of which I had no knowledge, were not allowed to be presented to the Deputy Minister. Also, why were only the co-workers who were yelling at me investigated? Why were the others in BC Stats offices not interviewed? In a letter to me from Don McRae, in contravention of the Master Agreement, Article 8.10 (a),

"The Employer agrees that, after a grievance has been initiated by the Union, the Employer's representatives will not enter into discussion or negotiation with respect to the grievance, either directly or indirectly with the aggrieved employee without the consent of the Union." (see Exhibit 27 Union not aware)

... I was ordered to return to work and directed to see a counselor to address my "problem", March 9, 2006

"In light of your continued reference to unsubstantiated claims of intimidation and harassment by your manager and co-workers, the employer is making a formal referral to BC Employee and Family Assistance Program."

However, this assistance was not applicable. From the BCPSA....

"A formal referral to BC Employee and Family Assistance Program (BCEFAP) is a formalized (in writing) offer of assistance to an employee whose personal problems are believed to have adversely impacted their work performance. This referral occurs after deterioration in an employee's work has been documented. Formal referrals to the BCEFAP are used only after work performance review has identified unsatisfactory performance."

Comment: The most recent Employee Performance and Development Plan (Exhibit 2) showed that I meet and exceeding expectations. Nonetheless, an effort was made to discriminate against me by discrediting me as an Analyst and team player for providing creative, results oriented solutions to the many errors, rather than benefiting from

mediation, as prescribed by the Labour Code Section 2 (h) that ...

"encourages the use of mediation as a dispute resolution mechanism."

I was informed by the Deputy Minister, also in contravention of the Section 8.10 (a), that I was dismissed for just cause / insubordination on April 28, 2006 ...

"Your dismissal was recommended [by Don McRae] as a result of your insubordinate behaviour, your failure to follow direction, and your failure to accept any responsibility for what you perceive as a dysfunctional workplace.

In reviewing all of the circumstances, I have concluded that your behaviour and continued insubordination has rendered the employment relationship no longer viable.

Accordingly, pursuant to my authority under the Public Service Act, you are hereby dismissed from employment with the Public Service, effective immediately."

I wrote to the BCGEU disagreeing with just cause, and upon not hearing from them, I also sent copies to the Deputy Minister to ensure time lines were met. I proposed a resolution and pointed to the Human Rights violations. The BCPSA was concerned ...

From: Charbonneau, Michelle M PSA:EX
Sent: Tuesday, May 23, 2006 11:02 AM
To: Davies, Nancy PSA:EX
Subject: Munroe

Nancy

just dropped off a copy of the letter that Warren Munroe wrote to G. Macatee on May 10/06.

In the letter he states that he had informed the BCGEU that he did not agree with the claim of just cause regarding his dismissal. two questions:

1) the Deputy's office is asking for advice in how to respond to this letter and normally I would be cautioning them that as he was pursuing a griev process -not to get involved.

2) Has your office recd a grievance from the GEU? We haven't heard of anything from the ministry end of it. If it has been filed at arb, would we state tht he has gone outside of the griev process and therefore it's been abandoned?

can we talk at your earliest convenience?

Michelle Charbonneau
Labour Relations Specialist
Labour Relations Branch

After a year of requests for a fair hearing, at the Preliminary hearing June 22, 2007, used to deny arbitration with regard to the real matters in dispute, the GEU stated that there was no grievance in progress. The contract lawyer for the PSA exclaimed, after an hour of berating insults describing me as a despicable person, and accusing me of making two female co-workers fear for their safety, that this is "NOT A HUMAN RIGHTS CASE!"

My efforts to stop the proceedings were denied by the union and the information officer for the LRB, see Exhibit 80-82. After 100 days, the arbiter decided to not allow a fair hearing with regard to the real matters in dispute, the union withdrew, and the same LRB information officer said that the time to submit a Section 12 against the union had passed.

My original Section 12 submitted in July 2006 was not allowed to proceed. My requests to the LRB continue to be denied. My requests to the Ministers continue to be ignored.

I contend that the reason I was taken out of two courses that address Labour Relations and the Master Agreement, one by the PSA and one by the GEU, (September and November 2005, Exhibits 8 & 15) was an effort, in bad faith, 1) to keep me ill informed and easily dismissed and 2) to set up situations in violation of the Public Service Act and the Labour Code, Human Rights Code and the Master Agreement in an effort to find me guilty of going outside the grievance process; therefore, they would avoid arbitration with regard for the real matters in dispute.

Indeed, the non-statistical and sub-standard methods and models used to create the population numbers by the Ministry of Labour and Citizens' Services are reflected in the sub-standard methods used by the PSA and the GEU.

Nonetheless, Section 1.2 b of the Labour code states ...

"a person does not cease to be an employee by reason only of ceasing to work as a result of a dismissal that is contrary to the Labour Code"

As you can appreciate, I look forward to finding a constructive resolution to this "important legal question" (Canadian Bar Association) as soon as possible. To this end, I continue to request a fair hearing before a neutral, independent board, into the real matters in dispute, with fair representation.

Yours truly,



William Warren Munroe