

Case Law - Age

Garbett v. Gustav Fisher

Board Decision - April 18, 1996

Key Words: Accommodation; Age; Receipt of Public Assistance

The complainant, who was 16 at the time, went to the respondent with a friend and applied for an apartment. The complainant was given a rental application to complete and did so. The complainant then testified that she gave the respondent \$120.00 as a deposit and he then gave her a receipt. The complainant testified that the respondent did not read the rental application forms at that time. The respondent testified that the receipt was stolen and that he never received the \$120.00. He further testified that the primary reason he did not rent the unit to the complainant was that she had stolen the receipt. The Board held that by his own admission, the respondent had a policy that he did not rent to young people in receipt of social assistance because they could not pre-pay the last month's rent. The complainant was awarded \$2,500.00 in general damages and \$162.00 for financial losses.

Large v. City of Stratford

Supreme Court of Canada Decision - January 25, 1996

Key Words: Employment; Age

The complaint by a police officer that his mandatory retirement at age 60, pursuant to a collective agreement, violated the Code was upheld by a Board of Inquiry, as well as the Divisional Court and Court of Appeal. The Supreme Court reversed the decision of the lower Court, and found that the mandatory retirement policy was justified as a "bona fide occupational requirement" (BFOR). The Court held that where a work-related requirement derives from a collective agreement, the subjective component of the test for a BFOR is met if both parties acted in good faith and imposed the rule without an ulterior purpose contrary to the Code. With respect to the objective test, the Court held that a general rule is justified where it is not practical to identify and exempt from the rule those who lack the requisite characteristics. Only in cases of indirect discrimination, the Court held, would the possibility of individual accommodation constitute a reasonable alternative so as to deprive the employer of a defence.