

CEC Bulletin

(August, 2007)

United Nations *Convention on the Rights of Persons with Disabilities*

In light of the recent decision of the Supreme Court of Canada in *Health Services and Support-Facilities Subsector Bargaining Assn. v. British Columbia*, [2007] SCC 27, and as described in the CEC Bulletin dated June 2007, it has become incumbent on Canadian employers to heed international treaties and United Nations Conventions signed or ratified by the Canadian government. Going forward, Canadian courts at all levels can be expected to look to international labour principles and UN Conventions, especially those signed by Canada, to inform and interpret domestic labour law and policy.

With the growing importance of international labour law in mind, this Bulletin brings to your attention the United Nations *Convention on the Rights of Persons with Disabilities*, of which Canada is now one of 96 signatories. While Canadian employers are not technically bound by the *Convention* until the federal Parliament chooses to ratify it, being a mere signatory may be sufficient for the Supreme Court of Canada to consider its principles persuasive.

From the perspective of Canadian employers, the following provisions of the *Convention* are noteworthy:

Article 1 Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.

Article 2 Discrimination on the basis of disability means any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. It includes all forms of discrimination, including denial of reasonable accommodation.

Article 27 ...States Parties shall safeguard and promote the realization of the right to work, including for those who acquire a disability during the course of employment, by taking appropriate steps, including through legislation, to, inter alia:

- (a) Prohibit discrimination on the basis of disability with regard to all matters concerning all forms of employment, including conditions of recruitment, hiring and employment, continuance of employment, career advancement and safe and healthy working conditions;
- (b) Protect the rights of persons with disabilities, on an equal basis with others, to just and favourable conditions of work, including equal opportunities and equal remuneration for work of equal value, safe and healthy working conditions, including protection from harassment, and the redress of grievances;
- (c) Ensure that persons with disabilities are able to exercise their labour and trade union rights on an equal basis with others;
- (e) Promote employment opportunities and career advancement for persons with disabilities in the labour market, as well as assistance in finding, obtaining, maintaining and returning to employment;
- (h) Promote the employment of persons with disabilities in the private sector through appropriate policies and measures, which may include affirmative action programmes, incentives and other measures;
- (j) Promote the acquisition by persons with disabilities of work experience in the open labour market;
- (k) Promote vocational and professional rehabilitation, job retention and return-to-work programmes for persons with disabilities.

As always, the CEC will keep its members informed of any changes to the *Convention* or relevant Canadian judicial decisions of note.

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The *Convention on the Rights of Persons with Disabilities* can be accessed on-line at <http://www.ohchr.org/english/law/disabilities-convention.htm>

The decision in *B.C. Health Services* can be accessed on-line at <http://scc.lexum.umontreal.ca/en/2007/2007scc27/2007scc27.html>

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