



New Brunswick Human Rights Commission

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A change to relying on professional analysis

There was a huge change in how the Commission did its work during the nine years that I was there. At the beginning, it was the raw material—the raw information from the case—was presented to the members. Then, it came to a meeting and the members were asked—someone was asked to say—whether they thought this case should be dismissed or whether it should be continued. It seemed like—this wasn't always true—but it seemed like whoever got off the mark first and said, “Well, I think it should be dismissed and this is why,” other people were kind of, “Well, that could be,” because nothing is ever clear-cut, black and white; it's always shades of grey. After a period of time like this, members—and I think this was when I was a member of the Commission—people said, “Well, why aren't we looking at what the analysis of the facts are, not just the raw material? We should have our staff, who are professionals.” The New Brunswick model is, the Commission members are citizens; they're not “experts,” they're not professionals in the work of human rights. The professionals work for the Commission. So, the idea was that the professionals should do their analysis of the facts, the legal counsel should give their opinion on the law, and then the Commission should come to a decision. This gave the staff a lot more clout in determining the path ahead. I can't say that it was a hundred percent that you followed what the professional analysis was, but it certainly changed it. There was a time when it seemed like it could go this way or that way, and it was all just on the intuitive feeling of Commission members. And there were times when I heard Commission members say, “Well, I don't care what the law is, this isn't right, and that company is big enough to do this, so we should make them do it anyway.” And then you'd have to say, “Oh, yeah, okay, but what's the Human Rights Act say?” You know, you've got to have a process that has fidelity to the legislation, but at the same time, listens to the professionals and then lets the citizen Commission members use their common sense to decide what should happen with the case. And I think we made progress on that while I was on the Commission, and it got to be much more predictable. You didn't have situations that we had in some of the earlier stages, where the professional staff would be just totally shocked at what the Commission had decided, because it wasn't at all in line with what the analysis might have been. So that process, I think, was significantly improved.