

**THE HIGH COURT**

**2009 223 JR**

**COUNTY LOUTH VOCATIONAL EDUCATIONAL COMMITTEE**

**APPLICANT**

**AND**

**THE EQUALITY TRIBUNAL**

**AND**

**PEARSE BRANNIGAN**

**RESPONDENT**

**NOTICE PARTY**

**JUDGMENT of Mr. Justice Brian McGovern delivered on the 24th day of July, 2009**

**1. Reliefs sought**

1.1 Leave was granted by this Court (O'Neill J.) on 27th February, 2009, to the applicant to seek the following reliefs by way of judicial review proceedings:-

1. A declaration that the respondent has acted ultra vires in purporting to conduct an investigation of alleged discriminatory acts (within the meaning of the Employment Equality Acts 1998 to 2004) against the notice party which fall outside the terms of complaint made by the notice party received by the respondent on 4th August, 2006.

2. A declaration that in her investigation of alleged discriminatory acts (within the meaning of the Employment Equality Acts 1998 to 2004) against the notice party the subject of his complaint received by the respondent on 4th August, 2006, the officer of the respondent is required to confine her investigation to the two matters the subject of the said complaint.

3. A declaration that the respondent lacks jurisdiction to investigate any alleged complaint of the notice party to the provisions of the Employment Equality Acts 1998 to 2004 save the complaint received by the respondent on 4th August, 2006.

4. A declaration that the respondent is limited to investigating complaints of discrimination made by the notice party which have been lawfully referred to it and which occurred within a period of six months from 4th August, 2006.

5. An injunction by way of judicial review staying the investigation currently being conducted by the respondent into alleged discriminatory acts (within the meaning of the Employment Equality Acts 1998 to 2004) against the notice party, save insofar as the said investigation is confined to the two allegations contained in the complaint received from the notice party by the respondent on 4th August, 2006.

6. A declaration that in the absence of the applicant being on notice of all the details of the allegations being pursued by the notice party before the hearing being conducted by the respondent, the respondent has acted in breach of natural justice and fair procedures in failing to permit the attendance of employees of the applicant who themselves are the subject of the allegations.

7. In the alternative, a declaration that the respondent's refusal to permit the applicant's employees access to the hearing amounts to a denial of natural justice in circumstances where the notice party has been at liberty to make allegations and give evidence of matters of which the applicant has had no or sufficient prior notice.

8. In the alternative, an injunction restraining the respondent from continuing its investigation until such time as the notice party is required by the respondent to provide full details of the nature of the allegations against the applicant, its servants or agents.

**2. The facts**

2.1 The notice party to these proceedings is a retired teacher. He was employed at two schools run by the applicant from 1981 until September 2007, when he was granted early retirement on the grounds of ill health pursuant to a scheme of the Department of Education and Science. Between 1981 and 2003, he worked at St. Laurence's Community College, Drogheda and from 2003 until 2007, he worked at Drogheda Institute of Further Education.

2.2 On the 4th August, 2006, the respondent received a completed "Form EE1" from the notice party. Such a form is a standard administrative form, without any statutory basis, which is used by the respondent for dealing with complaints of discrimination relating to employment. In his form, the notice party alleged that he had been discriminated against by the applicant on the grounds of his gender and on the grounds of his sexual orientation, which he indicted to be homosexual in part 3 of the form. As to the "description of the claim", in part 4 of the form, the notice party indicated that he had experienced discriminatory treatment in "promotion/re-grading", "conditions of employment", "harassment" and "victimization". In part 5 of the form,

the notice party named Patrick Branigan & Company, Solicitors, as his "representative" and provided their contact details. In the section headed "Part 8: Details of complaint", the notice party stated that the date of the first occurrence of the discriminatory act alleged was 16th December, 2005, and that the date of the occurrence of the most recent discriminatory act alleged was 10th March, 2006. The place at which the discriminatory acts took place was stated to be at Drogheda Institute of Further Education. In the same section, a "brief outline of complaint" was requested. The notice party wrote as follows:-

*"On Dec 16th a colleague tried to assault me with his fist to my face. Another colleague prevented actual contact by jumping between us. This was reported to the Principal, who did nothing about it. On March 10 2006, another colleague placed a banana, half-peeled encased in a condom in my mailbox in the staffroom. I reported this to the Principal whose reply was 'what do you want me to do about it'? He eventually [sic.] said he would make an announcement to the staff about this that morning. He didn't bother to do this. I had to ask him on the following Monday why he didn't make the announcement. His reply was 'I got waylaid'. This was said in a dismissive tone. On that day (March 10), I went to my doctor and went on sick leave."*

2.3 Personal injury proceedings were instituted by the notice party in this Court against the applicant on 4th July, 2007, in which he seeks damages. The notice party claims that from 1997 onwards, he was bullied, harassed, assaulted and undermined to the point where he had no option but to leave his employment. The applicant is defending these proceedings.

2.4 On 29th August, 2008, the Director of the respondent appointed Ms. Valerie Murtagh, Equality Officer, to investigate the notice party's claim in accordance with the provisions of the Employment Equality Acts 2000-2008. The respondent requested further details of the complaint from the notice party by way of written submissions which were duly lodged with the respondent and are dated 19th September, 2007. Reference was made by the notice party in those submissions to alleged incidents of discrimination dating back to 1997. A copy of his submissions was furnished to the applicant. The respondent requested a response to the content of those submissions by 31st January, 2008. No such response was received. The deadline for receipt of a response was extended by Ms. Murtagh to 7th November, 2008. However, the replying submissions were not made available until 21st January, 2009, the eve of the hearing date.

2.5 The hearing into the notice party's complaint commenced on 22nd January, 2009. The parties, their legal representatives and seven witnesses for the applicant, who were employees of the applicant, were present. Ms. Murtagh explained to the parties that it was practice in certain cases not to have all witnesses present at the hearing and she ruled that the applicant's witnesses be excluded from the hearing, with the exception of the Principal and Vice Principal of the school in which the applicant last worked. She indicated that she would give time to the parties for discussion prior to the hearing of evidence. The reasons for taking this course were outlined in the following terms by Ms. Murtagh at para. 17 of her affidavit sworn on 7th April, 2009:-

*"I say that pursuant to the Employment Equality Acts, I am not permitted to administer oaths during a hearing. The Acts also mandate that the hearing shall be in private. I say and have been advised that I have discretion as to how the hearing is to proceed, so long as it is conducted fairly. I say that I am concerned that fairness and privacy is observed in the hearing process. For that reason I do not permit all witnesses to attend the hearing in general other than witnesses that are central to the case. I say that to permit a host of witnesses may lead to overcrowding in the hearing room and create discomfort for all parties. In this case, as in others, the parties and their advisors were present in the hearing room while the other witnesses remained outside until it was their turn to present their evidence."*

2.6 A joint application for an adjournment of the hearing was then made to afford each side an opportunity to consider their various positions in respect of the two sets of proceedings in being and to explore whether a settlement could be reached. An adjournment was granted to 12th February, 2009. The notice party's legal representative indicated that further submissions would be delivered on behalf of her client addressing the legal issues discussed by the applicants in their submissions of the previous day. Those further submissions are dated 9th February, 2009. They claimed that the notice party was a victim of continuing discrimination on the grounds of his sexual orientation which impacted adversely on him for many years and submit that the respondent should not be confined the terms of the complaint as set out in the notice party's Form EE1 in its investigation into the matter.

2.7 At the resumed hearing on 12th February, 2009, the applicant raised two preliminary matters. Firstly, it applied for a stay of the hearing pending the determination of the personal injury proceedings. Ms. Murtagh decided, however, that she had a statutory function to exercise and that the hearing would proceed on the basis that the two claims - the equality claim and the personal injuries claim - were separate. Secondly, the applicant requested a ruling to be made in respect of the nature of the evidence which the notice party would be permitted to rely on at the hearing. The applicant contended that the notice party should not be allowed to give evidence in respect of the events prior to 16th December 2005, the date of the first alleged discriminatory act, as per the Form EE1. The notice party made the case that the discriminatory acts were continuing acts, capable of being investigated. Ms. Murtagh concluded that she should hear all of the evidence before making any decision in fact or in law. She stated that she had yet made a decision as to the lawful ambit of her investigation and would do so at the end of hearing the evidence.

2.8 Following the rulings in these two preliminary matters, the hearing commenced, with the notice party first to give evidence. At the hearing of these judicial review proceedings, the applicant pointed to new issues which emerged during the course of the applicant's testimony on 12th February, 2009, in respect of which it objects and in respect of which it claims not to have had any notice. Those issues are identified by Mr. Eugene Winters, then Acting Chief Executive Officer at County Louth VEC, at paragraphs 25 - 26 of his affidavit sworn on 27th February, 2009. Those paragraphs state as follows:-

"25. ... Mr. Brannigan gave evidence that in early 1999, he found himself supervising students every morning and lunchtime and received his first break at 2.05pm after starting work at 9.00am. Mr. Brannigan contended that this was discrimination on grounds of his sexual orientation and further when he spoke to the then Principal of the school (a Mr. O'Dowd) about this matter, he was informed 'I am changing fucking nothing until I am told to'. Mr. Brannigan's evidence was that this situation continued for one year.

26. The Notice Party also informed the Respondent's Officer that Ms. Breda Nugent, a teacher in the school, had first hand experience of the discrimination which he had suffered. He gave evidence to the effect that in 1999, a rock was thrown into his classroom and he complained about this incident directly to Ms. Nugent. His evidence was that he asked Ms. Nugent to go to the Principal about this matter. He further stated that he handed Ms. Nugent the rock and asked her to go and show it to the Principal and to go through the appropriate channels and tell the Principal that a rock had been thrown at him. Mr. Brannigan's evidence continued to the effect that Ms. Nugent went to the Principal and returned to Mr. Brannigan and indicated that she had been to see the Principal of the school, Mr. Dowd, who had simply shrugged his shoulders at her."

2.9 Mr. Winters then went on to describe the nature of the applicant's difficulty with the above testimony being given, which was conveyed to Ms. Murtagh:-

"27. At this point in the hearing, when it became clear the Officer of the Respondent was prepared to let the Notice Party rely on matters which had allegedly occurred over the previous ten or twelve years and of which the Applicant had absolutely no notice, and which had not been referred to previously the Notice Party, I, and my legal advisers, became even more concerned. Counsel thereupon objected to the evidence being given by the Notice Party. It was pointed out that the evidence directly concerned members of the Applicant's staff who were not present in the room and who, in the absence of any details having been supplied prior to the hearing regarding the matters being advanced on behalf of the Notice Party, could not provide the Applicant's advisers with instructions in order to challenge the veracity of the Notice Party's account of events or the alleged import of his evidence."

2.10 The applicant applied for an adjournment. While the Equality Officer indicated she did not want any further delays in the conduct of the hearing, she made it clear that the applicant would be given the opportunity to bring witnesses to respond to any allegations made against them.

2.11 After lunch, Ms. Nugent attended the hearing but was asked to leave by Ms. Murtagh. The applicant makes the case that the exclusion of its witnesses from the hearing room is a breach of fair procedures. At the conclusion of proceedings on that day, it was agreed by both sides that the matter should be adjourned for a further two hearing days. A date could not be agreed.

2.12 Correspondence was exchanged between the applicant and the respondent in respect of suitable dates. The applicant's solicitors pointed out to the respondent that the dates of 23rd and 24th February, 2009, proposed by the Equality Officer, were not suitable as it would not be possible to provide cover for teachers who would have to attend. The Equality Officer said she would defer the hearing for one week and resume the proceedings on Monday 2nd March, 2009, and continue into the following day if necessary.

2.13 These proceedings were instituted on 27th February, 2009.

### 3. The law

3.1 The respondent was established under the Employment Equality Act 1998 (as amended) ("the Act") to hear and determine complaints of discrimination in employment on prohibited grounds of gender, marital status, family status, sexual orientation, religion, age, disability, race and membership of the Traveller community. Section 75 of the Act establishes the position of the Director of the Equality Tribunal. Section 75(4) provides:-

"(4) From among the Director's staff the Director may-

(a) appoint persons to be equality officers, and

(b) appoint persons, including equality officers, to be equality mediation officers."

A claim of discrimination may be delegated to an Equality Officer pursuant to s. 75 (4B) of the Act which provides:-

"(4B) The Director may delegate to an equality officer or an equality mediation officer any function conferred on him or her under this Act or any other enactment."

3.2 It is clear that it is a function of the Director to deal with claims in respect of discrimination or victimization from the terms of s. 77 (1) of the Act which provides:-

"(1) A person who claims-

(a) to have been discriminated against or subjected to victimization,

*may, subject to subsections (3) to (9), seek redress by referring the case to the Director."*

The following time limit is prescribed in section 77 (5)(a):-

*"(5) (a) Subject to paragraph (b), a claim for redress in respect of discrimination or victimization may not be referred under this section after the end of the period of 6 months from the date of occurrence of the discrimination or victimization to which the case relates or, as the case may be, the date of its most recent occurrence.*

Section 77 6(A) of the Act goes on to provide:-

*"(6A) For the purposes of this section-*

*(a) discrimination or victimisation occurs-*

*(i) if the act constituting it extends over a period, at the end of the period.*

*...."*

This provision envisages a case of continuing discrimination with the time limit referable to the point at which the discrimination ended.

3.3 The Equality Officer can deal with the complaint by way of mediation pursuant to s. 78 or by way of investigation pursuant to s. 79, as happened in this case. Section 79 sets out the procedure for the investigation process. It states:-

*"79. - (1) Where a case which has been referred to the Director under section 77-*

*(a) does not fall to be dealt with by way of mediation under section 78, or*

*(b) falls to be dealt with under this section by virtue of section 78(7),*

*the Director shall investigate the case and hear all persons appearing to the Director to be interested and desiring to be heard.*

*(1A)(a) Claims to have been discriminated against on more than one of the discriminatory grounds shall be investigated as a single case, and*

*(b) claims both to have been discriminated against on one or more than one of such grounds and to have been penalized in circumstances amounting to victimization may, in an appropriate case, be so investigated,*

*but a decision shall be made on each of the claims.*

*(2) An investigation under this section shall be in private.*

*...*

*(3A) If, in a case which is referred to the Director under section 77, a question arises relates to the entitlement of any party to bring or contest proceedings under that section, including:*

*(a) whether the complainant has complied with the statutory requirements relating to such referrals,*

*(b) whether the discrimination or victimization concerned occurred on or after 18 October 1999,*

*(c) whether the complainant is an employee, or*

*(d) any other related question of law or fact,*

*the Director may direct that the question be investigated as a preliminary issue and shall proceed accordingly.*

*(4) Subject to subsections (2) and (3), the Minister may by regulations specify-*

*(a) procedures to be followed by the Director in carrying out investigations (or any description of investigations) under this section, and*

*(b) time limits applicable to such investigations, including procedures for extending those limits in certain circumstances, but, before making any such regulations, the Minister shall consult the Authority and the Director.*

*...*

*(6) At the conclusion of an investigation under this section (including an investigation of a preliminary issue under subsection (3) or (3A)), the Director shall make a decision and, if the decision is in favour of the complainant -*

*(a) it shall provide for redress in accordance with section 82, or*

*(b) in the case of a decision on a preliminary issue under subsection (3), it shall be followed by an investigation of*

the substantive issue.

..."

3.4 Section 82 provides for the redress that may be awarded on foot of a decision under s.79. In respect of an equal treatment claim, a maximum of two years pay may be awarded, which, in the notice party's case, would amount to approximately €140,000. Section 83(1) provides that not later than 42 days after a decision of the Equality Tribunal, it may be appealed to the Labour Court. Section 90(1) provides that a decision of the Labour Court may be appealed to the High Court on a point of law.

#### **4. The issues**

4.1 Two principal issues arise for determination in these proceedings. The first is whether the respondent has jurisdiction to hear evidence at the hearing of the notice party's allegations going back over ten years which were not contained in the Form EE1? Is the jurisdiction of the respondent to investigate a complaint limited to a consideration the incidents occurring on the two dates specified in the form only? The second issue is whether the exclusion of the applicant's witnesses from the hearing room constituted a breach of fair procedures.

#### **5. Jurisdiction of the Equality Tribunal**

##### **The applicant's submissions**

5.1 Mr. McDonagh S.C. submitted that the object of these proceedings was not to stop the investigation into notice party's complaint but to seek to put parameters on the investigation into it. He contended that the allegations made by the notice party during the hearing were outside the terms of the original complaint in the Form EE1 and introduced new issues, of which the applicant had no notice, and could not be lawfully be investigated by the respondent as it was outside of its jurisdiction. He further submitted that the written submissions of the notice party dated 19th September, 2007, though put on notice to the applicant in advance of the hearing, strayed considerably outside the ambit of the terms of complaint referred by the notice party to the respondent, and were lodged more than twelve months after the applicant retired. The alleged discriminatory acts, of which the notice party complained in the Form EE1, related to the period between 16th December, 2005 and 10th March, 2006. What the respondent was seeking to do, Mr. McDonagh argued, was to squeeze several allegations going back over a decade into the complaint in its original form. It was submitted that it was the Form EE1 that conferred jurisdiction on the Tribunal and was a condition precedent to the Tribunal's jurisdiction to investigate into the matters alleged.

5.2 The applicant accepted that s. 77(6A) allowed for the respondent to investigate matters which allegedly occurred more than six months prior to the date upon which a particular claim was submitted to it, but this was only in circumstances where a complaint was lawfully made to it in respect of such matters. It submitted that the notice party had not indicated that there was continuing discrimination against him over many years on the form, and that as a result; allegations pertaining to those previous years could not be investigated. In addition, it contended that as the further allegations in the written submissions were made over twelve months after the notice party had retired, they were outside the six-month time limit prescribed by section 77(5)(a).

5.3 The applicant relied on the case of *Bank of Scotland (Ireland) v. Employment Appeals Tribunal* (Unreported, High Court, Ó Caoimh J. 15th July, 2002) in support of its contention that the presentation of a potential claim to a Tribunal within the requisite timeframe was a condition precedent to the jurisdiction of the Tribunal. It sought to distinguish the case of *Aer Lingus v. The Labour Court* (Unreported, High Court, 26th February, 1988, Carroll J.) (Unreported, Supreme Court, 20th March, 1990), upon which the respondent relied, on the basis that the Labour Court was concerned, not with a time limit, but with whether claims of unlawful discrimination could be based on events which occurred prior to the Employment Equality Act 1977.

5.4 The applicant denied that it was acting in a premature fashion by instituting judicial review proceedings at this juncture. It argued that if it was to wait until the end of an appeal to the Labour Court before bringing a judicial review, that it would not be efficient or cost effective, in that the whole matter may ultimately have to be re-investigated.

##### **The respondent's submissions**

5.5 Mr. Durcan S.C., for the respondent, noted at the outset of his oral submissions the "broad church" of complainants who came before the respondent, some of whom were legally represented and some of whom were not. He warned of the dangers of introducing unnecessarily formal or complex procedures in respect of such a wide group. He submitted that ss.77 (1) and 79 conferred jurisdiction on the respondent to investigate complaints. Part of the investigation process would, in his submission, be taken up with an investigation into whether there had been compliance with the statutory conditions or not. The respondent argued that there is a discretion on the part of the Director of the respondent or the Equality Officer, if carrying out an investigation, to deal with this matter by way of a preliminary issue or not. If it was decided not to deal with it by way of a preliminary issue, it formed part of the substantive hearing. Counsel for the respondent noted that no application was made for a preliminary hearing in this

case. He cited *Aer Lingus v. The Labour Court* (Unreported, High Court, 26th February, 1988, Carroll J.) (Unreported, Supreme Court, 20th March, 1990) in support of his argument that the holding of a preliminary hearing was not necessary to deem a complaint receivable, and that it was permissible to consider the compliance with the statutory conditions of the case as part of the substantive hearing.

5.6 The respondent contended that the Form EE1 was only intended to set out the generality of the complaint and its basic details. It submitted that to limit a complainant to the matters set out in the referral form would be to unjustly and unlawfully fetter the manner in which the Oireachtas intended the investigation to proceed as set out in the Act. The complaint form should not, it argued, be converted into a rigid pleading which could not be developed or amended. In this regard, counsel for the respondent drew an analogy with a High Court writ, which clearly can be amended in appropriate circumstances. It would be extraordinary, he contended, that in a Tribunal setting, a claim could never be expanded out, especially given that the form itself requires "*brief details*" of the complaint and where it is conceivable that a form may be filled out without legal advice. In addition, he noted that the Act provided for a situation where a continuous act of discrimination is alleged to have occurred.

5.7 The fact that the Equality Officer in this case had decided to hear all the evidence was, in his submission, in accordance with section 79(1A). He argued that, as she had not yet made a decision as to the temporal limit of the complaint, that these proceedings were premature. In addition, he submitted that it would be untenable for the respondent not to be permitted to inquire into historical evidence, given that the Act envisages continuous acts of discrimination.

### **The notice party's submissions**

5.8 Mr. Kenneally S.C., for the notice party, submitted that the applicant was on full notice of the allegations the notice party was making against it. The Form EE1 was, in his submission, to be read in conjunction with the detailed submission of 19th September, 1997, where the ambit of his complaint was broadened temporally. It was noteworthy, he stated, that although that submission was delivered to the applicant some one year and three months prior to the hearing, the applicant had not delivered its response to it until the day before the hearing commenced.

## **6. Conclusion**

6.1 In my view, the case of *Bank of Scotland (Ireland) v. Employment Appeals Tribunal* (Unreported, High Court, Ó Caoimh J. 15th July, 2002) does not assist the applicant, as it is clear, on the facts, that the claim by the notice party was made within time and in that way it differs from this case. The *Aer Lingus Teoranta v. Labour Court* (Unreported, High Court, 26th February, 1988, Carroll J.) (Unreported, Supreme Court, 20th March, 1990) case supports the argument of counsel for the respondent who said that the holding of a preliminary hearing was not necessary to deem the complaint receivable and that it was permissible for the respondent to consider the compliance with the statutory conditions of the case as part of the substantive hearing.

6.2 I accept the submission on behalf of the respondent that the Form EE1 was only intended to set out, in broad outline, the nature of the complaint. If it is permissible in court proceedings to amend pleadings, where the justice of the case requires it, then *a fortiori*, it should be permissible to amend a claim as set out in a form such as the EE1, so long as the general nature of the complaint (in this case, discrimination on the grounds of sexual orientation) remains the same. What is in issue here is the furnishing of further and better particulars, although, it must be said, in the context of an expanded period of time. But, under the legislation, it is clear that the complaints which are made within that expanded period are not time-barred. That is not to say, that complaints going back over a very lengthy period would have to be considered, as an issue of prejudice might arise. But this is something that would fall to be dealt with in the course of the hearing in any particular case.

6.3 Of course, it is necessary that insofar as the nature of the claim is expanded, the respondent in the claim must be given a reasonable opportunity to deal with these complaints, and the procedures adopted by the Equality Officer must be fair and reasonable and in compliance with the principles of natural and constitutional justice.

6.4 It is clear that on 19th September, 2007, details of the notice party's claim were given to the applicant. These details went beyond the information contained in the EE1 form, but were part of the same complaint, namely, discrimination on the grounds of sexual orientation. The replying submissions were not made available until 21st January, 2009, which was the date before the hearing. I am satisfied that the applicant had ample notice of the claim being made against his employees and should have been in a position to deal with them at the hearing before the Equality Officer. The applicant could argue that there was one matter on which it did not have notice in advance of the hearing, namely, the incident of the rock being thrown into the classroom in 1999, and the complaint made to Ms. Nugent. On the other hand, there is a reference in the statement to the Tribunal made on 19th September, 2007, in which the notice party refers to the fact that stones were thrown at him in the classroom. It is clear, however, that Ms. Nugent attended the hearing. Indeed, one of the issues arising in this application was whether or not it was fair that she was asked to leave the room while the notice party was giving evidence. It seems to me that she would have been in a position to deal with the evidence on this point, once she was informed of what the notice party had said and she could give her account of the event.

6.5 I am satisfied, therefore, that the applicant was in a position to deal with the claims made by the respondent, even if they went beyond the ambit of what is contained in the Form EE1.

6.6 Apart from the issue concerning Ms. Nugent referred to above, the applicant was concerned that its witnesses remain outside the room while the notice party gave his evidence. This forms part of the complaint in this application. The Equality Officer was entitled to run the hearing of the complaint as she saw fit, so long as it complied with the principles of natural and constitutional justice. It is quite easy to understand why an Equality Officer might regard this as a reasonable procedure because complainants, in that particular forum, might feel

intimidated if the employees, against whom they are complaining, were all present in the same room. What is essential, however, is that the employees complained against, know the case being made against them and that they either present themselves or are represented at the hearing so that they can confront the accuser and cross-examine him. It appears that there was a representative of the applicant present who was in a position to cross-examine the notice party on his evidence, and the relevant witnesses for the applicant were available to give their own account of events and, where necessary, to instruct the applicant as to the accuracy of the notice party's account.

6.7 It is important to emphasize that the hearing before the Equality Tribunal is not a hearing in a court of law with all the attendant formality that would exist in such a forum.

6.8 Having considered the evidence in this matter, and the submissions of counsel, I have reached the conclusion that the applicant is not entitled to the reliefs sought for two reasons:

(i) the respondent had not made a final determination on the issue of the temporal limit of the complaint;

(ii) the procedures which were adopted by the respondent were not unfair or contrary to natural or constitutional justice.