

Ottawa won't appeal landmark child care ruling ^[1]

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Source: Toronto Star ^[2]

Format: Article

Publication Date: 27 Jun 2014

EXCERPTS

Ottawa is ending its fight to overturn a groundbreaking human rights ruling that says Canadian employers must try to accommodate parents struggling to meet child-care needs.

Canada Border Services Agency notified former Toronto airport customs officer Fiona Johnstone Thursday that it is not seeking leave to appeal her case to the Supreme Court of Canada.

It means Johnstone's 10-year battle with the agency for a work schedule that allows her to make child-care arrangements is over and her case is now the law of the land.

"The government . . . will comply with the terms of the in this case," a government spokeswoman said in an email to the Star.

Johnstone, 43, who now lives with her family in the Ottawa area, said she hoped other parents would also benefit from the ruling.

"I couldn't be happier," Johnstone said Friday. "It just took longer than I anticipated."

Ottawa twice appealed a 2010 Canadian Human Rights Tribunal decision that ruled the agency had discriminated against Johnstone in 2004 when it denied her request for fixed shifts so she could make child-care arrangements for her newborn son.

An appeal court ruling in May that largely dismissed Ottawa's second appeal, confirmed that Canadian human rights legislation should be interpreted broadly and that protection from discrimination on the basis of "family status" includes child care.

Practically, it means that when parents of young children have made reasonable efforts to arrange child care and are unsuccessful, employers have a duty to accommodate them, unless they can show undue hardship, Johnstone's lawyers have said.

The agency has been ordered to pay the difference between Johnstone's part-time and full-time wages and benefits from 2005 until August 2007, when the family relocated to Ottawa and she took unpaid leave. Johnstone, who is looking for work with the agency in the Ottawa area, will also receive \$20,000 in special damages.

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