

Pay Equity Commission

Pay Equity Office

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Commission de l'équité salariale

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August 23, 2007

Equal Pay Coalition
474 Bathurst Street
Suite 300
Toronto, Ontario
M5S 2T6
Attention: Mary Cornish, Chair

Dear Ms. Cornish:

Re: Your letter of August 13, 2007

Thank you for your letter of August 13, 2007, setting out a number of wide-ranging thoughts, concerns and opinions about pay equity in general, as well as your interpretation of certain provisions of the *Pay Equity Act* and the Commission's recent activities.

Before commenting on the issues that were raised in your letter, I wish to commend the ongoing efforts of the Pay Equity Coalition, which has been steadfast in its pursuit of pay equity for the women of Ontario.

Invitation to join campaign

As you know, the Pay Equity Commission is created by statute and has specific legislated functions. It would be inappropriate therefore for the Commission to participate in the campaign that is being launched by the Pay Equity Coalition.

We welcome, of course, any public education efforts by non-governmental organizations such as yours to heighten awareness of pay equity and to draw attention to the provisions of the *Pay Equity Act*. For our part, we have dedicated resources over this past year to develop a number of new educational materials, including e-learning modules to assist employers in creating a pay equity process and a self-audit questionnaire, both of which are available on our website.

Widespread Pay Equity Non-Compliance and the Role of the Pay Equity Office

As I noted in my Fall 2006 presentation to the Ontario Federation of Labour, a significant portion of private sector employers are not in compliance with the *Pay Equity Act*. Statistically, 46% of working women are employed in the private sector and of these, only 14.4% have union coverage (August 26, 2006 issue of "Perspectives on Labour and Income", Statistics Canada).

It is incumbent upon the Pay Equity Office therefore to commit sufficient resources to both educate and enforce the legislation, through its pro-active monitoring program, in this sector where the majority of women workers are vulnerable.

In identifying the need for action in the non-union and private sectors, the Commission recognizes that it must be as mindful of its duty to employees in the public, broader public and unionized workplaces. The Commission recognizes its obligation to assist individuals in those sectors to achieve and maintain pay equity and remains committed to assisting employees and unions in their efforts to redress systemic discrimination in compensation in accordance with the provisions of the *Pay Equity Act*.

Changes Introduced by the Pay Equity Office

Consistent with the best practices of modern Tribunals, the Pay Equity Office's intake process has enabled us to assist the parties and the assigned Review Officer to more readily focus on the issue in dispute by collecting as much relevant information relating to applications as is possible. In many cases, the investigation of the Review Officer is being broadened to include not only a resolution of the issue at hand, but also to conduct an assessment of overall compliance so as to maximize the results of our involvement in any particular organization. Our intake process also enables us to direct the parties to specific educational materials at an early stage so that parties are made aware of the scope of the Pay Equity Office's authority and jurisdiction and so that the parties may be properly prepared for the investigation and settlement process. Finally, the process has allowed us to better integrate the monitoring function as part of our regular file assignment.

Interpretation of the *Pay Equity Act*

We have not embarked on a new interpretation of the *Pay Equity Act*; we are however striving for consistency in the enforcement of the *Act*. Consequently, Review Officers will not be commencing settlement negotiations until they have ascertained whether there is a contravention of the *Act* and then will make such Orders as are necessary to bring the parties into compliance, if dispute resolution efforts fail.

Although the *Act* requires pay equity to be maintained, it does not prescribe the mechanisms by which maintenance is to be achieved. Negotiated maintenance plans and terms of reference are two mechanisms that could be adopted by unions and employers of their own accord to ensure that pay equity is maintained. Other approaches are also possible in order for there to be compliance.

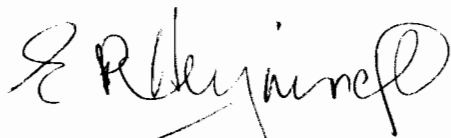
In maintenance situations, a Review Officer's initial investigation will be focussed on determining whether the maintenance practices have led to a widening of the wage gap or whether new wage gaps have been created in contravention of the *Act*. This approach is consistent with the legislation, the current jurisprudence that we are bound to follow and is also consistent with our existing Guidelines.

20th Anniversary of the legislation

As we mark the 20th year of operation, we have been looking into events that would allow for an exchange of ideas among interested parties to celebrate past successes and explore future endeavours. We welcome any thoughts that the Pay Equity Coalition might have on marking this anniversary and invite you to contact my office to arrange a meeting to discuss this further.

I thank you for bringing your concerns to our attention.

Sincerely,



Emanuela Heyninck, L.L.B
Commissioner
Pay Equity Commission

cc Honourable Steve Peters, Minister of Labour
Wayne Samuelson, Terry Downey & Irene Harris, Ontario Federation of Labour
Andrea Horwath, New Democratic Party Women's Critic
Christine Elliott, Progressive Conservative Party Women's Clinic
Warren (Smokey) Thomas, President, OPSEU
Paul Moist, CUPE National President
Sid Ryan, CUPE Ontario, President
Ken Coran, OSSTF, President
Wayne Fraser, USWA District 6, Director