

August 27, 2014

Maureen Bedek
Executive Officer
Human Resources Services
London District Catholic School Board
5200 Wellington Road South
London, ON N6E 3X8

Dear Ms. Bedek:

Re: **OECA Grievance # 12918-LD-BM**

London District Catholic School Board and OECA London District Grievance – Human Rights – Continuation of Harassment and Discrimination Due to Disability and Medical Accommodation, Discipline and Retribution, Failure to Accommodate, Reprisal for Filing Harassment and Discrimination Complaints

Please be advised that I am filing a Teacher Grievance in accordance with Article 6.04 of the Collective Agreement. I contend that the Board has violated Articles 4.01, Management Rights; 5.01 Just Cause; 13.01 Salary; 14 Benefits; 21.17(a)(i) Secondary Workload; 28 Evaluation; 31 Harassment; the Education Act, Occupational Health and Safety Act (Bill 168), the Ontario Human Rights Code, the Ontario Labour relations Act and any other relevant Article in the Collective Agreement or Statute or Regulation of the Province of Ontario.

The general circumstances giving rise to this grievance include the Board's continued failure to do the following:

- ensure that my entitlements under the Collective Agreement are respected;
- ensure that I am afforded due process;
- provide me with a work environment that is safe, healthy and free from harassment;
- ensure that my medical needs and workplace accommodations are respected.

More specifically, I contend that in June-July 2014, the Board engaged in a pattern of improper conduct including:

- failing for the second year in a row to assign me a timetable by June 1st as per Collective Agreement;
- issuing letters requiring me to attend meetings to discuss the McNair Report without identifying that the Board was considering the viability of the employment relationship;
- assessing the viability of the employment relationship based on incidents at St. Thomas Aquinas after the Board had failed to ensure that the school administration and the guidance staff provided a respectful, non-discriminatory and supportive working environment;
- failing to acknowledge the substantial flaws and omissions in the McNair Report and utilizing that Report as a basis for suggesting that the employment relationship was no longer viable;

- sending a letter dated July 15, 2014 suggesting that no amount of accommodation would be sufficient to persuade me that I am being adequately protected.

I was assigned to St. Thomas Aquinas for the 2013-2014 school year due to unresolved problems at RMC directly related to the violations of my rights by the school administration. The Hewitt Report found that Principal Vecchio had conducted himself in an improper manner on December 11, 2012 (tapping my temples and yelling in an insulting manner) and on February 14, 2013 (review of performance issues without due process).

I had recognized that the assignment to St. Thomas Aquinas was going to be a problem and repeatedly raised potential issues with Human Resources in detail by email on May 13, June 25, 26 and 28, 2013. Notwithstanding this information, the Board failed to take all reasonable and appropriate steps to ensure that I would be fairly treated by the school administration and the staff at St. Thomas Aquinas.

Between September 2013 and February 2014, a number of issues arose due to unreasonable and inequitable treatment accorded me by the St. Thomas Aquinas administration and staff. A grievance was filed by OECTA in early 2014 which alleged that I was the subject of inappropriate and discriminatory treatment and harassment. As a retaliatory response, members of the guidance staff (Mallender and Chen) filed harassment complaints against me.

In the spring of 2014, the Board retained John McNair to investigate the situation at St. Thomas Aquinas. Rather than utilizing Liz Hewitt, who was familiar with the historical background, the Board appointed an individual who was unfamiliar with the background and who was unwilling to familiarize himself with relevant background details. In June 2014, the McNair Report dismissed my allegations and the harassment complaints by Mallender and Chen. The McNair Report is significantly flawed. These flaws include:

- failing to recognize that the Board was deficient in ensuring that the school administration and staff created a positive environment to facilitate my entry into the School;
- failing to recognize that the August 30th, 2013, comments of Principal Linda Thomas were discriminatory, harassing, and illegal;
- failing to adequately appreciate the impact of the intense anger and disappointment of staff related to my assignment;
- failing to conclude that the intervention of the school administration in the conflict regarding guidance workload and more specifically the reorganization of the "alpha" was inadequate and not sufficiently sensitive to my reasonable and legitimate concerns;
- failing to determine that false complaints were lodged against me, as a reprisal for my filing a grievance;
- failing to conclude that Principal Thomas inappropriately drew conclusions about my removal of my own files and accusing me of taking school property and demanding that my files be returned within 24 hours;
- failing to conclude that the events viewed in their totality establish a pattern of harassment and the creation of a poisoned work environment.

Following the release of the McNair Report, the Board sent a series of letters requesting two meetings to provide me an opportunity to respond to the McNair Report. After requests for clarification by OECTA, it became evident that the Board wished to discuss the viability of a continued employment relationship. This amounted to an improper threat to my employment. Having regard to the

requirement in the Consent Award to continue my accommodation, this approach was improper. If the Board was of the view that continuing my accommodation was undue hardship, it was necessary for them to clearly state their position. The Board failed to do so and instead proposed a vague process without disclosing its true agenda.

OECTA wrote to the Board on June 30 and took issue with the Board's approach to the current situation (see attached). The Board responded by letter dated July 15, 2014 requesting that I provide updated medical information to confirm the accommodations required going forward. In addition, the letter goes on to comment on parts of my evidence with respect to RMC grievance for 2012-2013 and the findings in the McNair Report and suggests that the Board will be unable to continue accommodating me as a guidance teacher. The letter states in part as follows:

In all of the circumstances, we are deeply and sincerely concerned that no amount of accommodation, goodwill and sensitivity in the future will persuade Ms. Michail that she has been adequately protected from "negative experiences" in the course of her employment.

We are willing to consider input from Dr. Reist with respect to her professional opinion as to whether there is any reasonable prospect of a healthy, safe and successful return to the workplace, given Ms. Michail's state of mind. However, based on her demonstrated antipathy and mistrust for administrators, co-workers, Human Resources and the Board itself, we have great difficulty imagining any assignment which would not cause Ms. Michail further psychological distress and the predictable consequences of that distress. To be clear, we will consider Dr. Reist's view, but will ultimately exercise our discretion in making the final determination of the viability of this employment relationship.

In effect, the Board is indicating that it would be impossible to provide me with a suitable work environment.

The contents of the July 15, 2014 letter are simply inappropriate. The references to my evidence regarding the 2012-2013 school year are unreasonable. The Principal of RMC clearly violated my rights in 2012-2013 and this was verified by the Board's own investigation. To vilify me for my feelings about improper treatment by the Board is wrong. My feelings about what happened are not the basis for the Board to refuse to continue the agreed upon and required accommodation.

The Board's reliance on the conclusions of the McNair Report regarding 2013-2014 is misplaced. The assignment at St. Thomas Aquinas was problematic from the outset and the Board failed to take steps to address the profound negative feelings of administration and staff regarding my placement. Unreasonably, John McNair and the Board systematically refused to recognize the consequences of the extreme anger, resentment and disappointment of the school administration and teachers regarding my placement at the school. For the Board to base its decision on statements by staff that they do not wish to work with me is simply unreasonable and unfair. Clearly, I am capable of doing this job.

For the Board to conclude, or to threaten to conclude, that I cannot be accommodated even if the Board were to apply appropriate good will and diligence is insidious and amounts to ongoing violation of the collective agreement and the Human Rights Code.

The Board and its employees have also discriminated against me contrary to the Human Rights Code on the basis of my Ethnic background and country of origin. I have been called "the little Egyptian", considered as an "outsider" and therefore not worthy to have access to any position of authority or to be accommodated. I have received an extremely humiliating and unequal treatment due to my need for accommodation having to file 4 grievances, undergo 3 investigations, face numerous false

allegations, being wrongfully shamed, demeaning public encounters and several attempts to incriminate me with the goal to eliminate me, causing serious harm to my physical and psychological health, wellbeing and reputation.

The full redress sought includes but is not limited to:

1. A declaration that the Board has breached the Human Rights Code and contravened the Collective Agreement;
2. A declaration that the Board failed to provide me with a safe work environment since September 2010, leaving me in hostile and poisonous workplace prejudicial to my health;
3. A declaration that the Board and its employees intentionally inflicted mental suffering for 4 consecutive years, which induced unnecessary stress and stress related illness to my person;
4. A declaration that the state of my physical and mental wellbeing today is a direct consequence of the Board's and its employees' behavior towards me over the last 4 years;
5. A declaration that the Board failed to uphold the *Ethical Standards of the Teaching Profession* and Section 18. 1. (b) of the *Teaching Profession Act* and to immediately provide me with a list of all colleagues who expressed their unwillingness to work with me and those who plan to ask for transfers if I am placed in their current school. This list to be accompanied with the dates and details of the written or verbal adverse report, and to whom it was reported;
6. A declaration that the Board failed to take any steps to hold individuals at both RMC and STA accountable for their unreasonable and/or unlawful conduct;
7. A declaration that the Board failed to take the necessary steps to prevent repeated occurrence of hostilities despite my many pleas and warnings, this failure to protect me from harassment and discrimination for 4 consecutive years has created an intolerable work environment for me leading to serious harm to my physical and psychological health;
8. A declaration that the Board failed to fulfill their commitment to "re-establish the trust which has been broken" as per (Schedule "B") of the Interim Consent Award instead, the Board and its employees acted illegally, harshly, oppressively and unfairly leading to a loss of mutual trust and confidence in our employment relationship;
9. A declaration that the Board threatening to end my 24 years of employment constitutes reprisal and a continuation of discrimination;
10. A declaration that instead of taking serious steps to stop the hostilities against me, the Board has joined and condoned the defamation of my character by making defamatory, racist and damaging to my reputation statements including but not limited to their July 15, 2014 letter, leading to a loss of reputation;
11. A declaration that the Board has created artificial barriers to prevent my assignment to the new school in September 2013 which would have provided me with a safe accommodation;
12. A declaration that senior administration had full knowledge of my poisoned work environment and its impact on my health but failed to fulfill their duties and responsibilities despite my written formal grievances and emails asking for them to intervene yet they all remained silent and invisible to me;

13. A declaration that the Board failed to ensure an expeditious and just resolution to my dispute by depriving me from due process:
 - a. the serious delays in the scheduling of arbitration dates of all my grievances
 - b. the failure to provide documents ordered by arbitrator promptly
 - c. Withholding documents: until date, the Board has still not provided Superintendents, RMC & STA administration email correspondence ordered by arbitrator Brown in November 14, 2013 and May 2014;
14. An order that assignment for 2014-2015 must be:
 - a. accompanied by the Board's appropriate corrective disciplinary action to hold accountable those who have acted in a hostile, discriminatory manner towards me;
 - b. accompanied with a commitment that in case of dissatisfaction with the relationship, the issue to be brought immediately to arbitrator Brown.
15. A declaration that the Board's abusive and unfair conduct constituted a constructive dismissal. If the employment relationship is irreparable, the grievor is entitled to damages for all past, present and future economic loss;
16. Damages and any other redress that may be advanced by the Association and deemed reasonable by an arbitrator including: damages for constructive dismissal, aggravated damages, punitive damages, damages for intentional infliction of mental suffering, general damages, damages for mental distress, damages for loss of reputation, damages for past and present loss of income;

I am also requesting that the arbitrator require the Board to cooperate in scheduling sufficient dates to conclude the hearing of this matter promptly.

Sincerely,

A handwritten signature in cursive script, reading "M. Michail". Below the signature, the initials "Ber B.M." are written in a similar cursive style.

Myriam Michail

MM/lh