

## SUPREME COURT OF YUKON

Citation: *D.K.A. v. T.H.*, 2010 YKSC 63

Date: 20100908  
S.C. No. 10-A0058  
Registry: Whitehorse

BETWEEN:

**D.K.A.**

Plaintiff

AND:

**T.H.**

Defendant

Before: Mr. Justice L.F. Gower

Appearances:

D.K.A.

Debbie Hoffman

Appearing on his own behalf  
Counsel for the Defendant

### REASONS FOR JUDGMENT

[1] GOWER J. (Oral): This is an application to dismiss the Statement of Claim, which was filed July 7, 2010, by Mr. A. on his own behalf. That Statement of Claim refers to an incident at the Canada Games Centre on November 13, 2008, where Mr. A. claims that he was banned from entering or working at the Games Centre by Ms. H., without reasons.

[2] Mr. A. has also filed, in response to the application to strike that Statement of Claim, an affidavit filed September 7, 2010, which includes some five exhibits that

appear to be part of the contents of a human rights investigation into that same incident. Those materials do not support Mr. A.'s allegation that he was banned from the Canada Games Centre, nor do they support the allegation that he was banned without reasons. Quite to the contrary, the information indicates that there was allegedly an incident between Mr. A. and a young native teen, or pre-teen, which was witnessed by two City employees. These eyewitnesses reported that Mr. A. was treating the youth disrespectfully and in a threatening fashion, even using the words "threatening to kill." Ms. H. was the recipient of that information and reported it to her superiors.

[3] Ultimately, the City Manager, Mr. Shewfelt, took action which he claimed he was entitled to by contacting Mr. A.'s employer, who was the contractor that had the cleaning contract with the City at the Canada Games Centre. Mr. Shewfelt indicated that Mr. A. had breached the City's policy in terms of dealing respectfully with clients at the Games Centre and elsewhere, and directed that he be reassigned by the employer to another location outside of the Games Centre. Mr. Shewfelt clarified that at no point was Mr. A. ever banned as a member of the public from the Games Centre.

[4] It would also appear from those same materials there was a settlement that was ultimately reached between the various parties involved and that Mr. A. was a signatory to that settlement agreement. This was indicated in a letter dated July 8, 2009, and signed by Heather MacFadgen, the Director of Human Rights at that time.

[5] Ms. Hoffman, on behalf of Ms. H., asks that I consider striking the Statement of Claim on the basis that no reasonable cause of action exists as it is set out. Based on the manner in which the claim has been drafted, and for the reasons which Ms. Hoffman

gave to me in argument and submissions, I agree. There is no reasonable cause of action and the action shall be dismissed.

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GOWER J.