

# Upfront

**THERE WERE NO PARENTAL OBJECTIONS.**

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HUMAN RIGHTS

# GAY RIGHTS VS RELIGIOUS RIGHTS

## Can Christian B&B owners refuse a gay couple a room?

**Nathaniel Christopher**

**GAY RIGHTS AND RELIGIOUS RIGHTS** faced off last month when the BC Human Rights Tribunal heard a case in Kelowna about a couple denied a room at a Christian bed and breakfast.

"It's taken a long time to get here, and enough is enough," the gay couple's lawyer, Devyn Cousineau, told the tribunal, which heard the case Oct 17 and 18. "The code protects gay people accessing a service made available to the public, and they are not to be denied that service on the basis of sexual orientation in the absence of some proof of undue hardship."

In June 2009, Shaun Eadie spoke with Riverbend Bed and Breakfast co-owner Susan Molnar to book a room for himself and his partner, Brian Thomas. Five minutes later, Eadie said, Molnar's husband, Les, called him back to ask if he and Thomas were a gay couple. When Eadie said yes, Molnar allegedly replied, "This is not going to work out."

Eadie said "wow" and hung up. Molnar told the tribunal he said, "I'm sorry," and described Eadie's "wow" as angry. "I said to my wife, 'Maybe I should phone them back, invite them for breakfast and talk about this.' She said that he sounded angry and 'I don't think we should aggravate him anymore.'"

"It was quite disturbing," Eadie told the tribunal. "I just felt when it happened it brought me back to my childhood, where I felt like a second-class citizen, and it was like not being picked for a team and having that out-cast feeling again."

"I don't begrudge people difference; if everyone was the same, the world would be a boring place," Thomas said. "It's diversity that creates strengths and community. To be a person, or a business, who undermines the very fabric of what makes a community is patently unacceptable to me, and I'll stand where I have to stand to fight that bigotry in all its forms."

Les Molnar told the tribunal he has "no issue" with sexual orientation. "It's the behaviour that the person has, behaviour that is objectionable to our Lord and God, to ourselves and our conscience," he testified.

"It would be fine if they came and you didn't have to know that they were gay?" Cousineau asked.

"That's right," Molnar replied. He also agreed with Cousineau's statement that booking two separate rooms might have been the only workable solution.

The Molnars, who describe themselves as conservative evangelical Christians, are members of the Gospel Chapel, a Mennonite Brethren Church in Grand Forks, BC.

"I believe marriage is one woman and one man in a committed relationship, and that God created male and female in the beginning for the sanctity of marriage, and tying it to the production and building of his church," Susan said when asked about her beliefs on marriage. She also deemed all sexual behaviour outside of marriage as "sin."

Regarding room bookings, Susan said they looked for husbands and wives in committed relationships, as well as single people. When people contacted them for room bookings, she said, she would ask for the names of the callers' spouses, if applicable. "It's part of my standard conversation," she said.

She testified that she had rented rooms to two people of the same sex in the past, including two travelling nurses, as well as a mother and daughter. Les recalled renting a room to two men who told him that they had wives in "Victoria or somewhere." In these three instances, the guests booked rooms with two separate beds.

The Molnars, who closed their B&B after Thomas and Eadie filed their complaint, said they had no policies specifically excluding people of different faiths or sexual orientations, but they had expectations about behaviour.

"We would pray on a regular basis [about] behaviours in our home that we might be offended by, or our Lord might be offended by," Les said. "Drugs, drunkenness, pornography — anything like that which would not go well in our home for the Lord — we would not want it there, so we would pray against it."

The Molnars' lawyer, Ron Smith, argued that the Human Rights Code's guarantees of equal service apply more to a motel or hotel separate from a place of residence.



Moments after booking a room at the Riverbend B&B, Shaun Eadie (above right) says Les Molnar called him back to ask if he and Brian Thomas were a gay couple. When Eadie said yes, Molnar allegedly replied, "This is not going to work out." NATHANIEL CHRISTOPHER

**Les and Susan Molnar believe their home is a gift from God and should be used for his ministry. "We would pray on a regular basis [about] behaviours in our home that we might be offended by, or our Lord might be offended by," Les testified.** NATHANIEL CHRISTOPHER

"Assume that the Molnars were not operating a bed and breakfast but renting a suite in their home," tribunal member Enid Marion posited. "Would you then say that the same factors apply and that they would be able to refuse accommodation to a same-sex couple based on their sincerely held religious beliefs?"

"Now you're in Section 10 of the Act," Smith replied, referring to the section of the Human Rights Code that deals with discrimination in tenancy

premises. "I've not done any research on that."

"But I'm also talking about the concept of the activity taking place in one's home, which is where you're drawing the distinction," Marion pressed.

"Our position is clear," Smith replied. "Given the unique purpose of this home and its dedication for Christian worship, the Molnars could not allow activities in their home that would offend what they believe is their God and their church."

**I JUST FELT WHEN IT HAPPENED IT BROUGHT ME BACK TO MY CHILDHOOD, WHERE I FELT LIKE A SECOND-CLASS CITIZEN.**

—Shaun Eadie

More than just a place of business, the Molnars live, minister and hold religious fellowship meetings in their home, which has been blessed by clergy on two occasions, he said.

Cousineau argued that Section 8 of the code, which deals with discrimination in accommodation, service and facility, makes no exemption for businesses operated in homes. "This isn't a case where the state or anyone else compelled them to enter a business into their home," she said. "In making that decision, they knew they were required to comply with the laws of the province, and one of those paramount laws is the Human Rights Code. If people are not prepared to run a business in accordance with the Human Rights Code, or if they feel they cannot do so, then the business might not be for them."

Smith balked at that suggestion, saying it amounted to the state coercing religious people to violate their beliefs.

He compared the case to the 2005 Knights of Columbus case in which the BC Human Rights Tribunal upheld the Knights of Columbus's religious freedom when it ruled they didn't have to rent their hall for a lesbian wedding, contrary to their core beliefs.

"In that case, like this, the Knights had no written policy in place that the hall could be rented out for certain purposes," said Smith. "There was no external signage that could limit what the hall could be used for. The hall was, in effect, a commercial venture available to the public as a whole. The purpose was not to further a religious purpose but to provide revenue for charitable purposes."

But Cousineau pointed out that the Molnars were two private individuals operating a business, not a religious institution. "In the Knights of Columbus case, the hall was owned by the archdiocese, operated by the Knights of Columbus with a mandate to promote teachings of the church. Allowing the celebration of a same-sex marriage would have created a serious rupture between the Catholic Church and the Knights. There is no evidence that allowing a same-sex couple to stay in the [Molnars'] business would create a rupture in their church, or that their church would even find out about it."

Eadie and Thomas want the tribunal to find the Molnars discriminated against them as a gay couple, order them not to discriminate in the future and force them to pay them damages "somewhere in the region of \$2,500 each," Cousineau said.

A decision is not expected for several months due a backlog at the tribunal.