



November 24, 2008

The Rt. Hon. Stephen Harper
Prime Minister of Canada
Office of the Prime Minister
Langevin Block
80 Wellington Street
Ottawa, ON K1A 0A2

Dear Mr. Prime Minister:

Re: Mandatory Retirement

Further to our open letter dated July 18, 2008 we are writing to request that you repeal Section 15 (1)(c) of the Canadian Human Rights Act ("CHRA").

As you are aware, mandatory retirement is currently permissible according to Section 15 (1)(c) of the CHRA, which governs federally-regulated industries and government agencies. S.15 (1)(c) states that it is not a discriminatory practice if "an individual's employment is terminated because that individual has reached the normal age of retirement for employees working in positions similar to the position of that individual".

We write as a case is being heard in Federal Court, appealing from the Canadian Human Rights Tribunal's findings in the cases of George Vilven and Robert Kelly, two pilots with Air Canada who were forced to retire at age 60 despite their continuing fitness for work. This case offers an opportunity for the Federal government to announce changes to the law. We urge the federal government to act upon this important issue of basic human rights, by eliminating age discrimination from its own legislation

Mandatory retirement is a human rights violation (age discrimination) in which an individual's employment is terminated solely based on their age, not their ability or competency to perform a job. Age discrimination is otherwise prohibited under both the Charter of Rights and Freedoms and provincial/federal human rights codes. All of the provinces and territories, except New Brunswick, will have banned mandatory retirement by 2009 unless it is deemed a *bona fide* occupational requirement.

Over 840,000 Canadians, representing 10% of Canada's workforce, are currently affected by S.15(1)(c). Mandatory retirement is permitted in the federally regulated businesses and industries including air, marine and rail transport, the postal service and the armed forces. Mandatory retirement adversely affects the financial security of many older Canadians, especially women and recent immigrants, as well as the overall economy. Increased life expectancy and labour shortages mean that mandatory retirement has outlived its necessity within our society. Canadians are living longer, healthier lives than

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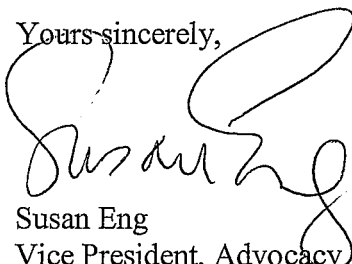
ever before. They should be allowed to continue to contribute to Canada's workforce and economy as long as they are able.

We respectfully submit that this section is inconsistent with the values of equality, dignity and respect held dear by all Canadians. S.15 (1)(c) does not restrict "normal age of retirement" to a Canadian standard. S.15 (1)(c) is thus an invitation to apply foreign discriminatory practices to Canadian workers. As it stands, S.15 (1)(c) can even permit federally-regulated companies to adopt lesser standards, when Canadian employers fail to keep up with changes in foreign benchmarks. Mandatory retirement at age 60 used to be the norm for international pilots. Since the *Vilven* and *Kelly* went to the Canadian Human Rights Tribunal, that age limit has increased to 65. In the US, there is no mandatory retirement age for pilots. Instead, pilots must continually meet licensing requirements. This kind of approach better serves the public interest, since it ensures that all pilots fly safely while respecting their human rights.

The *Vilven* and *Kelly* case provides the right backdrop for government leadership. Principled federal government action to eliminate arbitrary and unfair barriers to employment directly affects all Canadians but particularly older Canadians and will help to persuade provincial governments to remove provincial pension plan exemptions that still allow mandatory retirement. Employment should be based on competence and merit, not arbitrary and discriminatory factors like age.

We would be pleased to elaborate on our recommendations if required, and look forward to your response.

Yours sincerely,



Susan Eng
Vice President, Advocacy
CARP