



WOMEN'S LEGAL EDUCATION AND ACTION FUND  
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**For Immediate Release**

## **NEWS RELEASE**

### **SUPREME COURT DECIDES FITNESS TEST DISCRIMINATES AGAINST B.C. WOMAN FIREFIGHTER**

*British Columbia Government and Service Employees' Union v. the Government of the Province of British Columbia as represented by the Public Service Employee Relations Commission*

**(Ottawa - September 9, 1999)** In a landmark decision today, the Supreme Court of Canada unanimously ruled on a new test for discrimination in employment. LEAF is pleased with the Court's decision which prohibits employers from adopting discriminatory workplace rules, whether the discrimination is intentional or not. This decision is an important advance for equality law in Canada.

This case is about whether a fitness test discriminated against a B.C. woman firefighter who was dismissed from her job for failing one of four parts of the test in 1994. Tawney Meiorin worked as a forest firefighter for more than two years and performed her job well, to her supervisor's satisfaction. She filed a sex discrimination complaint against the British Columbia government after being laid off from her job as an Initial Attack forest firefighter when she failed to complete a 2.5 kilometre run in 11 minutes or less. She missed the running requirement by 49 seconds.

LEAF, in coalition with the Canadian Labour Congress and DAWN Canada: the DisAbled Women's Network Canada, intervened in this case to show how the test keeps women out of traditionally male jobs. The test in this case was developed based on the physical characteristics of male firefighters. It effectively screens out qualified women from employment as firefighters.

In this case, the Supreme Court of Canada considered the extent of an employer's duty to review and change workplace rules or policies to ensure that they do not disproportionately exclude women. The Court held that if a workplace rule excludes women or other groups, it must be scrutinized to ensure that it is truly necessary for determining job performance. This case challenges the assumption that a test based on men's physiology is neutral when applied to women. Such a test, based on a male norm, is not an appropriate test of women's ability to perform jobs traditionally held by men. LEAF argued that in developing job tests, employers must take women into account. The Supreme Court accepted this argument.

"This is a revolutionary case that will change the face of discrimination laws in Canada," Kate Hughes, LEAF Counsel, said. Ms. Hughes continued, "This decision will force employers to be more proactive in their approach to ensuring equality in the workplace."

Kim Buchanan, LEAF Staff Lawyer, said, "The court's unanimous decision is a victory for all working women who know that they will be judged by their ability to do the job and not on their similarity to men."

LEAF's intervention in this case was in recognition of the positive impact that this decision will have on women's equality in Canadian workplaces.

Kate Hughes and Melina Buckley were counsel.

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