



For immediate release

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COURT STRIKES DOWN ONTARIO "SPOUSE IN THE HOUSE" RULE AS DISCRIMINATORY

TORONTO – The Women's Legal Education Action Fund (LEAF) applauds the Ontario Court of Appeal decision to strike down the Ontario government's "spouse in the house" rule for welfare eligibility as discriminatory.

At issue in *Falkiner et al v The Queen* was whether amendments to Ontario's social assistance regulations, which significantly change the definition of "spouse" for the purpose of receiving social assistance, violate sections 7 (security of the person) and 15 (equality) of the *Charter*. These regulations provide that if a social assistance recipient lives with a person of the opposite sex, the two are presumed to be spouses and the social assistance recipient is presumed to have access to the income of the other person.

Four women challenged the constitutionality of the "spouse in the house" rule. LEAF intervened in the appeal and supported their position that the definition of spouse discriminated against women and single mothers on social assistance.

The Ontario Court of Appeal has found that the rule discriminates on the basis of sex, since women comprise almost 90% of those who were cut off social assistance because of the definition.

Sondra Gibbons, LEAF Director of Litigation, said the Ontario Court of Appeal Court has found that the "spouse in the house rule" was clearly discriminatory, not only because it overwhelmingly affected women, but also because it reinforced a stereotype that women living with men must be financially dependent upon that relationship.

"The rule discriminates against women, particularly poor women who are single mothers, by linking eligibility for benefits to their relationships with men," said Gibbons.

"The rule presumed that a woman's intimate relationships have an economic subtext, and that any involvement with a man implies some form of economic dependence. Therefore, the woman is no longer entitled to receive an income in her own right. The Court of Appeal agreed with LEAF's argument that this is discriminatory, and we applaud its decision," said Fay Faraday, counsel for LEAF.

Forcing women to become financially dependent on men, who do not support them or have no legal obligation to support them, strikes at the core of human dignity, said the Ontario Court of Appeal.

The Court of Appeal also recognized that the receipt of social assistance is a prohibited ground of discrimination under the *Charter*.

"Recognizing receipt of social assistance as a ground of Charter protection is very important because this is the first time that an Ontario court has accepted it as an analogous ground," said Gibbons. "This shows that the Charter is a living tree and is evolving."

The Ontario Court of Appeal heard the case on January 31 and February 1, 2001. Fay Faraday and Kerri Froc served as counsel for LEAF.

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