

Re: RECRUITING STANDARDS FOR THE BURNABY FIRE DEPARTMENT

In order for our recruiting practices in the Fire Department to be consistent with the provisions of the Human Rights Code of British Columbia, it is necessary for us to make a change in our "Burnaby By-law No. 5096 Burnaby Fire Prevention By-law 1968". The proposed change and the need for it is contained in the following report from the Director-Fire Services.

We have just recently been advised that the Human Rights Branch of the Department of Labour has confirmed that it is the opinion of the Human Rights Branch that the age requirement in the Burnaby Fire Prevention By-Law constitutes a violation of the Human Rights Code.

For background information, the attached article which recently appeared in the Vancouver Province provides some insight into the type of ruling that can be expected under the Code when selection for employment is based on or affected by a candidate's age.

RECOMMENDATION:

1. THAT sub-section (2) (a) Article 4.2.1.3, Section 4.2 of the Corporation of the District of Burnaby By-Law #5096 Burnaby Fire Prevention By-Law 1968 be rescinded.

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HEADQUARTERS
BURNABY FIRE DEPARTMENT
May 3, 1977

TO: MUNICIPAL MANAGER

FROM: DIRECTOR - FIRE SERVICES

SUBJECT: RECRUITING STANDARDS - BURNABY FIRE DEPARTMENT

Background

The Recruiting standards for the Burnaby Fire Department as contained in By-Law #5096 Burnaby Fire Prevention By-Law 1968, Section 4.2, Article 4.2.1.3.

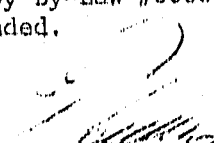
(2) (a) "is not less than 21 years of age and not more than 27 years of age" is ultra vires in the opinion of Mr. W. Stirling, Municipal Solicitor, by reason of the Human Rights Legislation.

The deletion of this particular sub-section would not result in the lessening or lowering of recruiting standards insofar as there are normally (200) two hundred applicants for each job vacancy, the majority of whom are in the 21 - 27 years category.

It is also my considered opinion, deletion of this age factor would allow the recruiting officer greater flexibility in selecting personnel who have qualifications which may conceivably offset the age factor.

RECOMMENDATION:

1. THAT sub-section (2) (a) Article 4.2.1.3, Section 4.2 of the Corporation of the District of Burnaby By-Law #5096 Burnaby Fire Prevention By-Law 1968 be rescinded.


T. G. NAIRN,
DIRECTOR - FIRE SERVICES.

TGN:bp

ITEM	4
MANAGER'S REPORT NO.	35
COUNCIL MEETING	May 9/77

Discrimination discerned, but ruling clears union

Russell Burns says he's "really choked up" about the "win-and-loss decision" of a human rights board of inquiry ruling Wednesday.

The five-member board found that Burns, 32, who was refused entry into a pipefitting apprenticeship program because he was too old, was discriminated against, but that the union that closed the door on him was not guilty of discrimination.

The collective agreement covering the Plumbing and Pipefitting Union, local 170, says applicants for apprenticeship must be between 18 and 25 years. Burns was 31 when he applied and was told he was too old.

The board's three-to-two decision was based on the conclusion that because section 9 of the Human Rights Code was proclaimed after the union's collective agreement was signed, the union could not be accused of contravening it.

Secondly, the act calls for complaints to be made within six months of the alleged contravention. If it is a continuing contravention, no allegation should be made

after the date of the last alleged contravention.

"The complaint against the union is dated June 3, 1976. The (union) agreement was signed June 21, 1974. We find . . . that this contravention was not a 'continuing contravention' . . . Since the complaint against the union was therefore out of time, we decline to make a finding against the union that it was guilty of a contravention," ruled board chairman Paul Daniels.

But the board ruled four to one that Burns, a Courtenay resident who completed a pre-apprenticeship training program, "was discriminated against without reasonable cause in respect of his qualifications."

Despite the code's definition of age being "any age of 45 years or more and less than 65," the board ruled that selection of only those between the ages specified by the union was "discrimination without reasonable cause."

Burns said in an interview he plans to discuss the judgment with his lawyer.

"I have fought this thing too long and too hard to let a decision like that hold me back from my plumbing career," he said.