

Date: 19970506
Docket: C967227
Registry: Vancouver

IN THE SUPREME COURT OF BRITISH COLUMBIA

Oral Reasons for Judgment
Mr. Justice Clancy
Pronounced in Chambers
May 6, 1997

BETWEEN:

CADMAR LARSON

PLAINTIFF

AND:

BC TRANSIT

DEFENDANT

Counsel for the Plaintiff:

C. Larson

Counsel for the Defendant:

F.G. Potts

Place and Date of Hearing:

**Vancouver, B.C.
May 5, 1997**

COPY

[1] Mr. Larson is the husband of April Larson. Mrs. Larson is a mate or second in command on the ferry known as the SeaBus operating between Vancouver and North Vancouver . She is currently off work and receiving long-term disability benefits. She has high toxicity levels in her blood which she alleges result from inhaling paint fumes produced by fresh paint applied in the wheelhouse of the ferry.

[2] After his wife became ill Mr. Larson requested permission on three different occasions to attend in the wheelhouses of ferries and, while there, took the opportunity to discuss with the crew, his wife's illness and the illnesses of other crew members which he understood to have been related to paint fumes.

[3] It may well be that Mr. Larson felt his conversations were simply small talk but a number of the employees in the wheelhouse complained to their union representative and to a senior captain. His visits were variously described as upsetting, annoying and disruptive. One employee indicated that he would not remain on duty if Mr. Larson was permitted to visit the wheelhouse again. The union representative took the position that the company and not the master of the ship should be responsible for taking action to ban Mr. Larson from the wheelhouse. Acting on the union representative's complaint the company wrote to Mr. Larson on November 21, 1996 advising him that any further visits to the wheelhouse would require prior

approval of the manager of the SeaBus or from Mr. Ross Stevens, Superintendent of Operations.

[4] In that letter of November 21, 1996 Mr. Stevens said:

It has come to my attention you have been visiting SeaBus and up in the vessel wheelhouse and that some of your visits to the wheelhouse have been disruptive to SeaBus staff.

[5] Mr. Larson considered the allegation of disruption to be defamatory and brought this action for damages. He now applies for judgment pursuant to Rule 18A of the *Rules of Court*. BC Transit opposes his application for judgment and brings its own application for a judgment dismissing the action.

[6] The first question that arises is whether the words used in the letter are defamatory. Mr. Larson relied on a definition in a legal dictionary which he did not identify, as meaning, "burst or broken asunder; broken up". He concedes that the law provides that the natural and ordinary meaning of words is the meaning to be attributed to them. The fair and natural meaning to be attributed to them is the meaning that would be given to them by reasonable persons of ordinary intelligence. *Siddon v. Mair et al* Vancouver C950204.

[7] That test differs little from the test advanced by the defendants who say that one must ask whether a reasonable

person to whom the words were published would understand them in a defamatory sense, in the sense that the words would tend to lower the reputation of the plaintiff in the estimation of reasonable members of society. Brown, the *Law of Defamation in Canada*, Volume I, (2d) pp. 5 - 4 to 5 - 17; and *Jones v. Skelton* [1963] 1 W.L.R. 1362 (P.C.) @ 1370 to 1371.

[8] I conclude that the meaning of the word disruptive put forward by Mr. Larson is not the fair and natural meaning. I accept instead the definition found in the Concise Oxford Dictionary of Current English, 1995 which defines "disrupt" as meaning to "interrupt the flow or continuity of, bring disorder to".

[9] Mr. Larson, as I understood him, said firstly that the words used would leave "right thinking" members of society with the impression that he had been defamed. I am unable to accede to that submission. I do not agree that an allegation that some visits had been disruptive to SeaBus staff could, in any way, lower the reputation of the plaintiff in the eyes of reasonable members of society. Right thinking persons, even if they knew the topics of conversation in the wheelhouse, would make no more of the statement than that the crew members wished to concentrate on the business of operating the ferry without the distraction of discussing toxic fumes. A reasonable person would not infer that the sentence of which Mr. Larson complains was directed to his reputation.

[10] Mr. Larson advanced a number of other arguments on the meaning to be given to the word disruptive, none of which are of assistance. He said for example that some of the affidavit material referred only to the employees stating that they "felt" he was being disruptive not that he was disruptive. Others used words such as annoying which is not the same as disruptive which does not have the same meaning. He argued as well that the letter only says that "some" of the visits were disruptive and at most that could mean one of the visits since there was no complaint about one of the three visits. Those arguments are of no assistance in determining whether the words used are defamatory. A reasonable person looking at the words complained of would not make such fine distinctions when searching for the meaning of the words.

[11] I have no difficulty in finding that the letter of November 21, 1996 was not defamatory. Mr. Larson's reputation could not have been affected by it.

[12] I do not propose to deal with the other issues raised by the parties, which include submissions as to the truth of the allegation, whether the defendant acted with malice, whether the words were published and whether the defendant acted on an occasion of qualified privilege. Nothing would be served by dealing those issues, given the finding that I have made.

[13] Similarly I do not propose to deal with the extensive argument advanced concerning the duties of BC Transit under the *Canada Shipping Act*, whether safety was compromised, the employment record of Mrs. Larson, or the harassment complaints which she brought. Any findings of fact I might make would not be relevant to the issue of whether the words used were defamatory.

[14] The application of Mr. Larson for judgment is dismissed. The application of BC Transit for judgment dismissing the action is granted. There is leave to speak to the question of costs.



D.L. CLANCY, J.

Vancouver, B.C.
May 6, 1997