Discrimination at work: Grievance Arbitrator or Human Rights Tribunal of Quebec... The debate rages on!

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On November 30, 2006, the Human Rights Tribunal of Quebec released a judgment in which it concluded that a grievance arbitrator did not have jurisdiction over litigation stemming from allegations of employment discrimination.

In the case of *Commission des droits de la personne et des droits de la jeunesse* v. *Procureur général du Québec* (D.T.E. 2007T-61) the Human Rights Tribunal ("HRT") held that it (the Tribunal) "constitutes a more appropriate forum for the dispute" and that, accordingly, the jurisdiction of the grievance arbitrator could not take precedence.

This interlocutory judgment of the HRT was the subject of an application for leave to appeal, which was dismissed by a Judge of the Quebec Court of Appeal.

An employer who is the subject of an investigation by the Human Rights Commission should, therefore, remain vigilant if the Commission intends to assert jurisdiction over litigation concerning employment discrimination involving a unionized employee.

Indeed, the conclusion of this recent judgment of the HRT is based on certain specific circumstances and may not exclude the general principles established by the courts of justice with respect to the specialized jurisdiction of grievance arbitrators.

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