

Members First

The official newsletter of The Mounted Police Members' Legal Fund

Fall 2009



THE MOUNTED POLICE MEMBERS' LEGAL FUND
FONDS DE RECOURS JURIDIQUE DES MEMBRES DE LA GENDARMERIE

It is crucial to remember that all lessons learned and all benefits derived from actions supported by the Mounted Police Members' Legal Fund (MPMLF) accrue to all regular and civilian members of the Royal Canadian Mounted Police regardless of whether you are a member of the MPMLF or not. Examples of this can be found in the Summer 2000 Newsletter on Cadet Allowances and in the Paul Shephard story in the Fall 2005 Newsletter available on our Web Site at www.mplegalfund.com. For these reasons alone it is important for you to show your support.

Are you a member of the MPMLF? If not, you should be! See some of the other reasons in this Newsletter.

To become a member, please submit an application form, a fax or an email to your Staff Relations Representative (SRR) or Sub-Representative with your regimental number, name, current posting and your permission to deduct the biweekly payment from your regular pay. For additional information don't forget to check our web site at www.mplegalfund.com.

With Help from the Mounted Police Members' Legal Fund Civilian Member Wins Federal Court Appeal on Overtime Claim

In our Fall 2008 Newsletter in the "WHAT IS NEW?" column we advised, "The Level II Adjudicator upheld the Level I decision to pay member only a portion of his overtime claim, despite there being no issue that member worked the overtime claimed." This particular case goes all the way back to 2003 and lucky for the applicant he became a member of the MPMLF in January 2002. Following is a brief history of the matter:

Prior to 2003 the member was never asked to obtain specific authorization from his supervisors before incurring overtime hours. He was of the belief that he had a standing authorization to work the overtime necessary to perform his job as there was general recognition that overtime had to be incurred on a

regular basis in order to deliver the service. Those overtime hours he had previously claimed were always paid. In May of 2003, the applicant's reporting relationship changed and his supervisor was posted in an area remote to his location. Believing that processes followed in the past were still in effect, in March of 2004 he submitted his overtime claims for the period May 2003 to 2004. These claims were denied for a number of reasons chief among which were that no prior approval had been received and finance advised they did not have the necessary funds in their budget.

The matter was grieved and the Level I Adjudicator ruled that the member had incurred overtime without authorization, contrary to policy and that the blanket

approval under which he had been previously operating was itself against policy. He found however that the overtime which corresponded with travel expense claims which had been accepted by the RCMP should be paid as the approval of the travel expenses associated with the overtime work indicated acquiescence or constructive approval that he was working overtime.

Unsatisfied with the outcome, in June 2007 the member appealed the Level I decision. The Level II Adjudicator made a number of conclusions. He did not accept the grievor's statement that he had previously held a "standing authorization" to accumulate and

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Information

The MPMLF is a private not for profit corporation under the direction of the majority of the Royal Canadian Mounted Police (RCMP) Staff Relations Representatives (SRRs). The views expressed in any material published in this Newsletter are those of the authors and do not reflect those of the RCMP.

Suggestions and contributions from members of the MPMLF are welcomed and encouraged. Please direct your comments to your SRR.

MPMLF 2009 National Executive Committee:

S/Sgt Murray Brown –
“H” Division – Chairperson

Sgt Tom Norton –
“E” Division – Vice Chairperson

Cpl Paul Joyal –
“D” Division – Member

Cpl Mike Casault –
“E” Division – Member

MPMLF Staff:

A. Gordon Clarke, Secretary/Treasurer,
agclarke@istar.ca

Roy Hill, Assistant Secretary/Treasurer,
r.hill@nl.rogers.com

**When we take on an issue,
we are convinced that justice
will triumph.**

**We are not afraid of the cost,
hiring the best lawyers
available to work in
your interest.**

**We cannot however predict
how the court will rule.**

With Help from the MPMLF

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claim any necessary overtime. Neither did he find that the member respected policies when he submitted all of his claims for the previous 10 months in March of 2004, or that he continued to accumulate overtime despite being aware of the small budget available. On both occasions the Adjudicator characterized the grievor's actions as, “a failure to exercise due diligence.” Finally the Adjudicator dismissed the claim that prior contact to request authorization before working overtime hours would have been impractical, given the means of communication at his disposal and the fact that he did obtain preauthorization for other aspects of his duties, such as travel.

This member turned to the Legal Fund for assistance and the matter was approved by the Board of Directors for a judicial review by the

Federal Court. The decision of the Court in February 2009 was as follows:

1. This application is allowed and the decision rendered April 7, 2008 by the Level II Adjudicator under the grievance provisions of the Royal Canadian Mounted Police Act, R.S.C. 1985,c.R-10 is set aside.
2. The applicant's grievance shall be resubmitted to another person acting as a Level II Adjudicator, in accordance with these Reasons.
3. The applicant shall have his costs.

HAPPY ENDING - After reviewing the decision of the Court, the Force paid this member for all of the overtime worked. As a result we received the following letter:

“Murray Brown, SRR Program and Gord Clarke
The Mounted Police Members' Legal Fund

Sirs, I am writing to express my sincere appreciation for the assistance offered me through the Mounted Police Members' Legal Fund.

The position I had been working in was understaffed for more than 3 years and I had been working very long hours in an effort to meet the job demands. Although senior management knew of the overtime, claims for compensation were refused on the premise that such overtime was considered to be 'voluntary'. After going through the long drawn-out grievance process, I was only successful in winning my overtime related to business travel.

Thankfully, I was a member of the Mounted Police Members' Legal Fund and with their help was able to challenge the decisions of the Adjudicator in the Level II Grievance. The Mounted Police Members' Legal Fund reviewed my case and supported a decision to challenge the outcome of the Grievance process by asking the Federal Court to conduct a Judicial Review.

The Judicial Review challenged the concept of 'voluntary overtime' as being unreasonable and pointed out the existing RCMP policy states that 'Members shall be compensated for all justifiable overtime.' The court ordered that the costs of the court challenge were to be paid and another Level II Adjudicator was to be assigned to review the grievance. Finally, in 2009 I received compensation owed for work performed dating back to 2003. This successful outcome would not have been possible without the support of the SRR Program and the Mounted Police Members' Legal Fund.

It is unfortunate that members have to go to this extent to be compensated for work performed, and to have to navigate through a lengthy and frustrating employer's grievance process. Thank you for your tremendous support and assistance in seeking a positive outcome.

With great appreciation,
Legal Fund Member”

Something You Should Know

We often request local lawyers to provide legal opinions on issues that affect our membership. It is important that you realize that legal opinion letters are, by their nature, an exercise in careful and considered analysis and in the end, involve an element of speculation. The nature of litigation is adversarial, and as you may well imagine, in those cases that proceed to trial, each side and their counsel have a different opinion as to their likelihood of success. It is only after the case has ended and judgment has been rendered, or the appeals have ended, that one side or the other turns out to have been “right” in their opinion.

The information required by a lawyer to provide a legal opinion is most times extensive and their opinion summaries often range from 3-30 pages. Following are a few brief examples of legal opinions requested since the last Newsletter was developed with the recommendation of the lawyer:

1. Member complained that he/she had been the subject of negligent infliction of mental suffering.

The legal opinion was that there was insufficient evidence to support a successful tort claim. “If a claim were to succeed, the damages would likely be relatively modest and limited.....”

2. Member occupied Force owned accommodation and signed an Occupancy Agreement. City sewage system backed up damaging member’s property. Member submitted a claim for reimbursement however the claim was denied as the Occupancy Agreement specifically stated, “The Occupant is fully responsible for damage to or loss of personal effects while occupying Crown-provided dwelling.” Member grieved and the Commissioner denied his grievance in July 2006.

The lawyer advised that the Limitation of Actions Act provide a complete bar to the members matter. In addition, the 30 day

time period allotted in the Federal Courts Act to appeal the Commissioner’s decision lapsed over two years ago. For these reasons, it is our belief that the chances of success on this matter are remote, and therefore, recommend against pursuing civil litigation.

3. Member was deployed to intercept a vehicle that was being pursued by the RCMP. He was equipped with a single lane spike belt, however had positioned himself at an area where the highway is comprised of three lanes. As the pursuing vehicle approached, it veered straight towards our member and accelerated. The member was struck suffering a broken right tibia and fibula as well as other injuries.

Member’s request for assistance from the Legal Fund was approved with the following legal opinion. “Given that Cst. losses are in the nature of personal injuries suffered as a result of a motor vehicle collision, this matter qualifies for retainer on a contingency basis as opposed to an hourly basis. We have spoken to Cst. and he is prepared to retain our services on that basis.”

4. A Public Broadcaster broadcast a picture of our member and alleged that he is an undercover RCMP officer. Member wished to know if his complaint warranted a civil action against the RCMP and the CBC.

The legal opinion stated that the member’s proposed civil action had no reasonable prospect of success. In addition, if such action were commenced there was a strong likelihood that the court would award costs against the member.

5. A member of the public posted several videos on www.youtube.com of one of our members making an arrest. Our member wished to determine whether or not there was a reasonable cause for action for defamation against the person who posted the videos.

Our lawyer advised that none of the comments posted byto date have been capable of founding an action in defamation. He/she has not posted a false statement of fact in relation to the member. The member does not have a reasonable cause of action at this time.

6. A member of the public made harassment complaints to the Commission for Public Complaints against a number of members of the Legal Fund. An opinion was sought on whether the Legal Fund should sponsor a civil action against the complainant.

The legal opinion stated, “We have concluded that the Members’ proposed civil action does not have a reasonable prospect of success. In particular, we are of the opinion that the complainant would be able to successfully defend against the members’ proposed civil action on the basis that the occasions on which he made the defamatory remarks are protected by an absolute privilege.”

DID YOU KNOW!

Currently 75% of the actual Regular and Civilian Membership of the Force belong to the Legal Fund. 81% of the Regular Members - 29% of the Civilian Members. The majority of the Regular Members who do not belong to the Legal Fund report to Division Hq. in Ottawa. The majority of Civilian Members who do not belong to the Legal Fund report to Division Hq. in Ottawa. Do they think that the issues that touch the lives of members working out of the other Divisions never occur at Division Hq. in Ottawa? We have records that show the problems members encounter occur throughout the Force. The Legal Fund is for ALL REGULAR AND CIVILIAN MEMBERS OF THE RCMP REGARDLESS OF YOUR RANK OR CLASSIFICATION. DO NOT BE LEFT OUT!!!!!!!!!!!!

British Columbia Members Vindicated by the Court

As the result of the arrest of a suspect, two members were accused of having acted improperly and using excessive force. The allegations were investigated and proven to be without merit. A local newspaper however published two articles about the incident suggesting that the members had ganged up on the suspect, brutally beat and injured him. The articles were clearly defamatory and the Legal Fund was contacted by the members to assist in the funding of legal proceedings to clear their reputation.

The trial took place in the Vancouver Supreme Court where both members testified about the incident and the impact of the articles on their personal and professional reputations. The publisher claimed that the publication of the articles was justified on the grounds of qualified privilege.

Under Canadian law, an individual is not liable for writing a defamatory article if it is: "right in the interests of society" that he should tell certain facts to another. There are occasions when the person to whom a statement is made has a special interest in learning the honestly held views of another person, even if those views are defamatory of someone else and cannot be proved to be true. When the interest is of sufficient importance to outweigh the need to protect reputation, the occasion is regarded as privileged.

The trial judge concluded that the qualified privilege defence did not apply because the articles written by the publisher were needlessly inflammatory. He then awarded \$22,000. to one member and \$20,000. to the other. The matter is currently being appealed by the defendant. We have been advised that the trial decision has attracted considerable attention from the legal community and could become a leading authority in the law of defamation in British Columbia. The decision was the first in

this jurisdiction to address a new development in the law of defamation in Canada. At trial the defendant argued that the publication of the articles was justified as "responsible journalism", a defence to defamation introduced by the English House of Lords' decision in Reynolds v. Times Newspapers Ltd. (2002) 2 A.C. 127. This defence to defamation has not been adopted by the Supreme Court of Canada or the British Columbia Court of Appeal.

In *Cusson v. Quan*, 2007 O.J. No. 4348, the Ontario Court of Appeal decided that the law of defamation in Canada should be modified, and adopted the "responsible journalism" defence from Reynolds. The case was appealed to the Supreme Court of Canada in early 2009, and a decision is expected to be released by the end of the year.

The trial judge in this case acknowledged that the responsible journalism defence was not the law in British Columbia. However, he applied the defence to allow for the possibility that the Supreme Court of Canada will adopt the defence in the *Cusson* case.

Even if the responsible journalism defence applies, the defendant is still liable for defaming our members. The trial judge con-

cluded that the defendant could not justify the publication of the articles about the members because they were not written in accordance with the standards of responsible journalism.

In this case, as is with many others we support, the judge awarded costs. When this occurs it is usually according to the Federal Court Rules and we only receive a fraction of the actual costs that we have paid counsel. Going to court is an expensive process however we do so when we have to for the benefit of all members.

IT'S A FACT!

Each year we have been reporting stats involving Divisions and Legal Fund Membership. Each year those figures have been increasing. Last year for Divisions A (Ottawa), C (Quebec), N (Ottawa HQ), O (Ontario) and S (Ottawa HQ) the increase was from 42.2 to 46%. This year that increase is from 46% to 51%. Last year for the rest of the Divisions we had an increase from 91% to 93%. This year we have again maintained the 93% participation.

IT'S A FACT!

At the writing of this article in August 2009 we have 47 open files. Since the publication of the last Newsletter we have concluded 30 and approved assistance for 25 additional matters in the following Divisions: C-4; D-1; E-4; F & T- 1; HQ-3; K-7; O-3; All Divisions - 2. These issues involve Harassment; Assault; Housing Problem; Human Rights; Excessive Force; Denial of Promotion; Pension Portability; SWOP; Election of Prior Service; Malicious Prosecution; Judicial Review on Pay Raise Roll Back; Sask. Govt. Insurance.

Member Complaint to the Public Service Labour Relations Board

IT'S A FACT!

For the first 8 months of this year we have averaged 115.25 New Members of the Legal Fund each month for a total of 922. We have had however an average of 49.75 members quitting the Force or going to pension during the same period. Our net gain has been 524 new members.

The following story relating to a member who filed a refusal to return to work for health reasons was reported in our Fall 2008 Newsletter with this note: "A written submission for appeal has been filed with the Federal Court of Appeal and it is not yet known if this appeal will be contested by Justice Canada. Keep tuned for more news on this matter next issue."

(The names of some persons and places involved have been changed for privacy reasons)

Constable Jones was seriously injured in the line of duty in a car accident while she was

working at Busy Detachment. While recovering, she developed an illness unrelated to the accident that rendered her unfit for work. Constable Jones unsuccessfully attempted a gradual return to work, resulting in her illness growing worse.

In 2005, Constable Jones received an order from her line officer to report for work for a second gradual return to work, although the medical opinion of both of her attending physicians justified waiting before attempting a return to work. Constable Jones reported to the office and filed a refusal to work under Part II of the Canadian Labour Code. Following that refusal to work, RCMP representatives, including the Commanding Officer at the time, launched an internal investigation under Part IV of the RCMP Act and threatened Constable Jones with disciplinary measures. Constable Jones then filed a complaint with the Public Service Labour Relations Board claiming that the employer was taking reprisals.

To our knowledge, this was the first time the Public Service Relations Board was to review a

complaint of reprisals filed by a regular RCMP member concerning a refusal to work and, as such, may set a precedent.

The Canada Labour Code Arbitrator decided not to render judgement on the perceived danger on this work refusal case. This decision would have been detrimental to all members of the RCMP and the Division Legal Fund Board decided, after seeking legal advice that the Arbitrator by not rendering judgement failed to properly exercise his authority, to take the matter to the Federal Court of Appeal.

The Judgment of that Court, as set out below, was delivered on February 20, 2009.

"In my opinion, there can be no doubt that the circumstances of this case absolutely could not give rise to a remedy based on section 128 of the Code. Accordingly, I find that there are not grounds for intervening. For these reasons, I would dismiss the application for judicial review with costs."

Following that Judgment the Division Legal Fund Board, in consultation with the Applicant's lawyer, advised the Legal Fund Executive Committee (LFEC) that they were of the belief the decision was erroneous and an appeal to the Supreme Court had a good chance of success. The LFEC, in reviewing the progress of this matter, did not agree and denied the application as per Bylaw 13.03 (c).

ON JUNE 5, 2009 THE IMMEDIATE PAST CHAIRPERSON OF THE MOUNTED POLICE MEMBERS' LEGAL FUND, S/SGT. ROY HILL, WAS INVESTED INTO THE ORDER OF MERIT OF THE POLICE FORCES. AT A CEREMONY IN OTTAWA HE RECEIVED THE MEDAL OF MERIT FROM THE GOVERNOR GENERAL.



*"The Order of Merit of the Police Forces was established in the year 2000 as a means of recognizing conspicuous merit and exceptional service by members of the police forces."
L to R. Roy, his daughter Kellie, wife Loretta, Governor General.*

IT'S A FACT!

At the writing of this Newsletter 16,433 Civilian and Regular members of the Force are contributing to the MPMLF. 1,032 Civilian Members and 15,401 Regular Members of which 421 are Commissioned Officers.

A Busy Time for SSR's and the Directors of the MPMLF in Support of RCMP Staff Relations Program

You are all of course familiar with the Bulletin advising that the Government rolled back your 2009 and 2010 negotiated pay raise in December 2008 but do you know what the MPMLF did and is still doing to try and get that decision changed? Following is a sequence of events:

In December 2008 immediately upon learning of the anticipated pay roll-back, the MPMLF National Executive Committee members contacted members of the RCMP Staff Relations Representatives National Executive Committee (SRRNEC) and through discussion agreed to set up and/or prepare for three initiatives:

(1). Establish a web site which would announce to members and the general public what had occurred and provide them with the opportunity to sign a petition and/or send a letter of complaint to the Prime Minister or other Member of Parliament.

On December 29, 2008 the web site www.callforbackup.ca was up and running. SRRNEC developed a press release for the web site and sent a communique Force wide explaining the reasons for the web site and its importance. During the following months many thousands of people across the country, and indeed the world, accessed the venue and published their comments in support of the membership.

(2). Arrange to have a poll conducted by an established national polling company to ascertain the public's perception of the Government action.

From January 3 to January 7, 2009 Nanos Research conducted a random survey of Canadians asking the following questions:

- i. Have you heard or not heard that the government of Canada is rolling back the promised 2009 annual pay increase for members of the RCMP from 3.5 to 1.5 percent?
- ii. Do you support, somewhat support, somewhat oppose or oppose rolling back the promised 2009 annual pay increase for members of the RCMP from 3.5 to 1.5 percent?

iii. Do you think the roll-back of the promised pay increase for members of the RCMP will have a positive, somewhat positive, neutral, somewhat negative or negative impact on the ability of the RCMP to recruit new police officers?

iv. Do you think the roll-back of the promised annual pay increase for members of the RCMP will have a positive, somewhat positive, neutral, somewhat negative impact on the ability of the RCMP to retain police officers?

v. Do you think the roll-back of the promised annual pay increase for members of the RCMP will have a positive, somewhat positive, neutral, somewhat negative or negative impact on public safety?

vi. Which of the following three options would you prefer?

- (a). Roll-back the 2009 promised RCMP annual pay increase from 3.5% to 1.5%.
- (b). Keep the promised annual pay increase of 2%.

- (c). Increase the RCMP annual pay from 2% to 2.5%.
- (d). Unsure.

This resulted in a resounding volley of support for the membership of the RCMP. 47.5% of persons contacted favoured option (b).

18.0% of persons contacted favoured option (c).

(3). Canvass the legal community to determine if there were grounds for legal action against the Government for breaking their commitment.

The matter was aggressively pursued by the Staff Relations Representative Program resulting in a partial remedy with the most recent announcement on increases to service pay, etc.

Previous to the above action however the MPMLF National Executive Committee approved funding for the filing of a Judicial Review of the Pay Roll Back in the Federal Court and the matter is ongoing.

Another Thank you to the Legal Fund

Monday, March 23, 2009 1:59 AM

From a happy member of the Legal Fund

To gordon.clarke@rcmp-grc.gc.ca

Please accept my sincere thanks for the assistance I received from the RCMP Legal Fund, which led to a resolution and agreement. The agreed settlement, which is subject of a non-disclosure clause, included an extended period of "administrative leave" and a small monetary payment for "personal damages". This settlement allowed me to end my career with the RCMP and move on to other endeavors. It is my belief that through the services of the Legal Fund, some of the officers involved have been enlightened as to what actions on their part are to be considered 'proper and acceptable', and that the RCMP can be held responsible for any of their unacceptable actions. It is my hope that there will not be any re-occurrence in the future, and that other Members will not have to suffer through any similar situations. If this should prove to be true, I know that the involvement of the Legal Fund has led to an improvement of working conditions for all Members. The Legal Fund was able to act as a 'last line of defense' and as such remains a good investment and an important resource for all RCMP Members. Again, thank you for your assistance."

Breaking News

On April 6, 2009 the Ontario Superior Court rendered a decision as a result of a court challenge in the matter of the Mounted Police Association of Ontario (MPAO) v. The Attorney General of Canada. The Court found that Section 96 of the RCMP Regulations was unconstitutional. Section 96 established the Staff Relations Representative Program (SRRP) as the recognized labour relations regime for the regular and civilian members of the RCMP. It highlighted that the SRRP has a lack of independence from RCMP management. The Court has suspended its decision for a period of 18 months to allow for the development of a constitutionally sound labour relations regime.

The Attorney General of Canada has filed an appeal from this decision to the Ontario Court of Appeal. A recommendation from a SRRP committee examining the court decision, was for the SRRP to seek intervener status in the Court of Appeal. The purpose of the Intervention would be to ensure clarity of information and the unique SRRP perspective, representing over 20,000 members, on the information that is to be considered.

This is a serious matter and approval has been given by the Executive of the Legal Fund to seek Intervener status at the Court of Appeal. Stay tuned.

Take time now to send us an Application or an email requesting membership. While we might not need you, for sure you need us.

IT'S A FACT!

In our Fall 2006 Newsletter we reported that two members in "K" Division had been awarded \$25,000 each in a defamation lawsuit. We are still trying to collect. In 2008 a Writ of Enforcement was registered against the defendant. The Writ can be renewed every 2 years for 10 years.

Saskatchewan...Saskatchewan... Saskatchewan

Home of the Royal Canadian Mounted Police. With the world wide press we have generated for this Province since our conception you would think we would never encounter any problems. We believe we have solved this one but only time will tell.

"Depot" Division Staff Relations Representative, Claude Rochon, presented the following problem to the Legal Fund. "On behalf of the members from "Depot" and "F" Divisions, I am seeking legal counsel to speak to the matter of the RCMP vs Saskatchewan Government Insurance (SGI). SGI has reduced death benefits to a survivor of an off-duty member killed in a motor vehicle collision because he was employed with the RCMP (Legal Fund member at the time of his death). The matter is before the SGI Appeals Board and the next hearing is scheduled for June 8, 2009." SGI has applied Sec 202 (1)(b) of the Automobile Accident Injury Act (AAIJ) which states: (1) In this section, "other compensation" means:

(a) compensation pursuant to The Workers' Compensation Act, 1979 or any other Act, or any legislation of any other jurisdiction, that provides for compensation of persons injured in accidents; or

(b) compensation pursuant to the National Defence Act (Canada) or the Royal Canadian Mounted Police Act.

Given that the member was operating his personal vehicle and was not on duty at the

time of his death, it is believed that this section of the AAIJ disadvantages RCMP members residing in the Province of Saskatchewan although they pay insurance premiums for their own personal vehicles like any other resident of the province. It is in the best interest of the membership within Saskatchewan to have legal counsel represent the members and to address the interpretation of 'other compensation' to the Appeals Board."

The request was approved by the Legal Fund and on July 2, 2009 we received the following from Hal B. Wellsch from the Regina firm of McCrank Stewart Johnson with respect to our appeal. "The severance pay pursuant to the Contract of Employment is payable to the deceased and not the estate. In other words, the deceased became entitled to the severance package immediately prior to his death and accordingly the payment was not a payment to the estate in accordance with the section of The Automobile Accident Insurance Act. In addition thereto we took the position that interest should be payable on said amount as it should have been paid pursuant to the provisions of The Automobile Accident Insurance Act and should not have been set off from the severance payment payable to the deceased. Counsel for SGI agreed that the interest should be payable and according interest pursuant to The Pre-Judgment Interest Act was payable from the date of the original claim."

Another win for the MPMLF.

IT'S A FACT!

Still Happening!!! In our last Newsletter we reported that we have had many members of the Force seek help from the Legal Fund and that continues to be the trend. Unfortunately there are still persons who are looking for our assistance but have not taken the time to become a member of the Legal Fund. In fairness to those who did, we cannot help you after you have been placed in a situation requiring our assistance as much as we would like.



THE MOUNTED POLICE MEMBERS' LEGAL FUND
FONDS DE RECOURS JURIDIQUE DES MEMBRES DE LA GENDARMERIE



APPLICATION FOR MEMBERSHIP TO THE MOUNTED POLICE MEMBERS' LEGAL FUND

THE LEGAL FUND

The Mounted Police Members' Legal Fund (Legal Fund) is a not for profit private corporation set up in 1997 by the majority of Staff Relations Representatives to generally fund actions to bring a resolution of issues between Regular and Civilian members of the RCMP, who belong to the Legal Fund, and the Government of Canada and to fund actions taken collectively or individually with respect to matters which affect the dignity or welfare of a member or members of the Legal Fund which are not funded under benefit programs available within the RCMP or the Government of Canada. We are concerned primarily with members' pay, benefits and rights.



MEMBER Complete and mail to your Staff Relations Representative (SRR).

Name _____
(Print)

(Detachment, section, unit, squad, etc.)

Division _____ Regimental# _____
Collator Code _____ HRMIS# _____

I hereby authorize a payroll deduction from my pay and authorize transfer of those funds to the Mounted Police Members' Legal Fund.

Signature _____

Date _____

Has This Happened to You? And if it Did, What Would You Do About It?

Note: Names have either been omitted or changed for privacy purposes.

Member submitted a RFI after learning his name had been removed from the eligibility list for a sergeant promotional opportunity.

After being advised of the decision as a result of his grievance, the member applied to the Legal Fund for assistance stating: "The RCMP has refused to implement a redress ordered by the grievance adjudicator. Since that time I have gone through all the steps available through the RCMP Act and Force policy in order for the RCMP to implement redress."

Contact was made with the law firm of Heenan Blaikie in Calgary to obtain a legal opinion as to the merits of proceeding with a judicial review application on behalf of the member. That opinion read in part, "For the reasons set out in this letter, it is our view that Cpl. Blank has a reasonable chance of succeeding in a judicial review application. It is also our view that this case could have an important precedential value for all members of the RCMP. Finally, it is our opinion that the issue raised in this matter is one of national importance and should be supported by the Mounted Police Members' Legal Fund." The matter was supported by the Legal Fund and proceeded to Federal Court.

We have now been advised that the matter has been resolved in favour of our member with the following being the content of the Order:

The decisions of Superintendent One dated August 24, 2006 and of Superintendent Two, in which they refused to comply with the decision of the DRPP adjudicator dated July 26, 2004, are hereby quashed.

The Royal Canadian Mounted Police, North West Region, Labour Relations Office shall forthwith comply with the order and direction of Superintendent Three dated July 26, 2004.

The Applicant is entitled to his reasonable costs and disbursements of this proceeding.

At the writing of this note we have not been advised of the amount of the costs we will receive however, as has been the case with many of the issues we take to court, we are only able to recover a small amount of the overall cost. The prime message here is that without the Legal Fund assistance, the member would not have been able to pursue the matter at all.