



UP AGAINST A GIANT

Campaign Backgrounder

November 2008

8 TEMPORARY AGENCY WORKERS VS. UNITED PARCEL SERVICES (UPS)

"When I came to Canada, I felt freedom. I left a country torn by civil war and looked to this country for the freedom I believe we should all have. I can't tell you how disappointing it was to be told I must leave my job because of my religion, right here in Canada".... Halimo Osman, one of eight Muslim women who lost their jobs at UPS, testified at the Canadian Human Rights Tribunal hearings (September 2008).

WAC, in association with other community organizations, worked with 8 Muslim women who wear hijabs and long skirts and who were employed for almost two years as temporary agency workers at UPS. In 2005, the temporary jobs were phased out as a result of collective bargaining and the women applied for permanent positions doing exactly the same work. It was only then that UPS declared that their clothing posed a health and safety hazard. Not once during their period of previous employment did UPS management raise any issue with their clothing. Permanent employment, they were told, was conditional on raising their skirts to make them shorter. The women refused on religious grounds and they found themselves without work. All eight women filed complaints in 2005 at the Canadian Human Rights Commission based on what they believe to be discrimination based on gender and religion. Their case finally came before the Canadian Human Rights Tribunal in September 2008.

The testimony given by the women throughout the 2 week hearings in September 2008 clearly demonstrated their determination to fight against the major barrier UPS has erected that prohibits Muslim women, who observe their religion as these women do, from working at UPS without violating a basic principle of their faith. This has been a driving force for the women who have always challenged UPS to consider what this means for their community and employment at UPS. Even though the hearings forced the women to relive the last humiliating days of their firing and the harassment they say they experienced at the hands of management asking them to raise their skirts, the experience did a lot to fuel the women's motivation to fight for what they believe is clearly a basic right in our society.

Throughout the testimony, our argument that UPS did not accommodate the women became increasingly stronger. The women were never asked for additional information about their skill sets, their past experience and were never considered for other jobs at UPS. The women were never once consulted about a possible alternative job or asked for their input on how to resolve the issue without job loss. The company did not consult their plant engineer to discuss workplace modifications or bring the issue in front of the joint union-management health and safety committee. It is astonishing to all involved that such a sophisticated and resourceful company could do so little to accommodate the needs of their employees. Instead, they gave the women a choice which was no real choice at all: violate your religious beliefs or lose your job.

The Tribunal is similar to any court of law where both sides tell their story through witnesses brought in to support their arguments. The information is collected by the Chair of the Tribunal who will make a decision 6-8 months from the last day of the hearing. The process is not worker-friendly. No compensation is paid to the women who had to take 10 full days

off work or to those who had to pay for childcare while they attended the hearings. The Workers' Action Centre, along with the Ontario Employment Education & Research Centre and other community groups, held a fundraiser in June to raise money to support the women through the case. This proved to be extremely helpful.

This case highlights the many barriers Muslim workers, particularly Muslim women whose clothing identifies them as Muslim, face when we live in a society permeated by Islamophobia and racism. It also brings to light the many shortfalls of the law that allow temporary workers, who are made up primarily of workers of colour and immigrant workers, to be treated as an increasingly growing underclass in our workforce. Temporary workers face immediate inequality in pay and lack of benefits doing exactly the same work as permanent workers. Temporary workers are often denied basic health and safety training while permanent workers may be given policies and guidelines and videos as part of their employment. This was the case with the eight women working at UPS - never once had any of the temporary workers received health and safety training.

This case also demonstrates the difficulties temporary workers face when a violation occurs, as they are caught in limbo between two employers – the temp agency and the client company. In this situation, the only contact the women had with the temp agency (Spherion) was on the day they handed in their application; whereas the company was the location where they worked every day and who provided all the supervision relating to the job. The women struggled for many weeks after their termination to get either party to address their job loss and to provide records of employment. The temp agency denied responsibility saying the policy that led to their termination belonged to UPS, and UPS has continued to deny that the women who worked for them, some up to two years, were their employees at all. Although the women lost their jobs during the process of being hired into permanent union positions, the argument about the employment relationship and who technically was their employer is continually being raised by UPS. In the end, this is only relevant for the women who faced differential treatment, not only as Muslims, but as temps.

Although deeply affected by this entire experience, all eight of the women agree that it has strengthened their commitment to continue their fight for equality, respect and the basic right to observe their religion free from discrimination. Dales Yusuf spoke in her testimony about what this means for her, *"I am not only fighting this for myself, I am fighting this so that my daughter knows she has the freedom to live and work in a society where she can be free. And where she can fight against an injustice like this also"*.

On November 18 the eight Muslim women settled their complaint with UPS-Canada. We are all very happy and feel that this has been an important case that will benefit many temporary workers. This case sends a signal to temporary workers that they can fight injustice under Canadian and Ontario workplace laws. Human rights and employment standards violations are rampant amongst temporary workers, the vast majority of whom are from racialized communities and are women and recent immigrants. But it is clear that when workers fight for their rights, they will prevail.

Details of the settlement are confidential and cannot be discussed. If you would like any further details please contact Karen Dick, ext 225.