



Changing Workplaces Review, ELCPB
CWR.SpecialAdvisors@ontario.ca

October 5, 2016

C. Michael Mitchell
John C. Murray

Dear Sirs

Ontario Council of the Canadian Federation of University Women (CFUW) is a voluntary, self-funded, non-profit organization with 54 clubs across the province, which is affiliated with the national CFUW and Graduate Women International, with the mandate to promote education and life-long learning, to encourage the participation of members in their communities, and to enhance the status of women and girls.

During our organization's annual resolution process, it was brought to our attention that employee benefits could be denied workers after the age of 65 through Regulation 286/01 of the Employment Standards Act and echoed in the Ontario Human Rights Code 25(2.1).

As most of the members of our organization are either newly retired or about to retire, this was of concern, so much so that a Resolution was adopted at the 2016 Annual General Meeting urging "the Government of Ontario to revise the Ontario Employment Standards Act to ensure that all employees who contribute to an employer's benefit plan remain covered for their full term of employment, regardless of age."

The Ontario Human Rights Commission and the Ontario Nursing Association (in their submissions to the Changing Workplace Review), the Law Commission of Ontario in its *Older Adults Consultation Paper*, Jan.2009 and organizations like the Ontario Confederation of University Faculty Associations and Canadian Auto Workers (in their testimony on Bill 211 Ending Mandatory Retirement) have also been echoed these concerns.

We recognize that this is currently before the Human Rights Tribunal of Ontario as a Charter challenge in the case of Talos v. Grand Erie District School Board.

We have also noted that in the *Special Advisors' Interim Report of the Changing Workplaces Review* (July 2016) this was not discussed. **It is our hope and request that**

in later stages of the Review, there will be a study of this Regulation 286/01 and its definition of 'age'.

For many reasons, people are continuing to work beyond the age of 65. As an organization of women, many of whom are in this age range and many of whom are still working, we support the extension of benefits for older workers. While we can recognize and understand concerns mentioned in the Interim Report about Ontario's competitiveness, we support your comment "that there is a need for "smart regulations" that can foster equity and fairness and at the same time also foster conditions that support the needs of the employers for efficiency and competitiveness." (p.19)

In a world of precarious employment and no benefits requesting an extension of benefits to older workers seems somewhat greedy, but as has been pointed out, people, many of them women are continuing to work and are needing to do so – those who returned to the work force after caring for children or parents (that all important second job), or those whose pay has been insufficient may not have the resources to retire.

As well, as shown in the study, *Women Working Longer: Facts and Some Explanations* (<http://www.nber.org/papers/w22607>) by Claudia Goldin and Lawrence Katz, well-educated women who like their work want to continue to contribute.

Also of concern are articles from lawyers and consultants that this discrimination is actuarial and cost-based, that insurers will either not provide the benefits or do so at a prohibitive cost for employers. Given that this then is supported by the Human Rights Code (Section 25 2.1), which says that this is not discriminatory if the group insurance plan respects the Employment Standards Act (Regulation 286/01), you can understand the frustration of the older worker.

Penalizing these people is unfair, hence we support any study of Regulations of the Employment Standards Act, in particular Regulation 286/01 to stop this discrimination.

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