

Tavern waitresses' costume wasn't exploitive, lawyer says

By Rick Haliechuk
Toronto Star

An Oakville tavern was not guilty of sexual discrimination by forcing waitresses in a disco to wear uniforms consisting of harem pants with side slits and a wrap-around top, a lawyer for the tavern argued in court yesterday.

Charles Wagner told the Supreme Court of Ontario that an Ontario Human Rights Commission board of inquiry was right when it threw out sexual discrimination complaints by two former waitresses at the Riverside Lodge.

Jacqueline Allan and Angela Wilson complained to the commission, saying they lost their jobs in 1982 for refusing to wear what they considered to be sexually revealing uniforms. The

commission is now appealing the finding of the independent board of inquiry.

"For discrimination to occur, there has to be an adverse impact," Wagner told the three judges hearing the commission's appeal. To prove discrimination there must be a distinction based on sex, plus an adverse impact on one sex which is clearly greater than on the other sex, he said.

Not enough

It's not enough to prove discrimination under the Human Rights Code by showing merely that waitresses had different uniforms than male serving staff, Wagner said.

The board of inquiry found no discrimination because the women weren't doing the identical job as men, and the uniforms weren't sexually exploitive and

were in keeping with commonly accepted social norms for taverns, Wagner argued.

But Mr. Justice John White suggested there was no equal treatment since the male staff were required only to wear "ordinary garb" while the waitresses were compelled to wear something which was "slightly exotic."

"The women were in costume, the men weren't," White said, adding that the men could go just about anywhere in their uniforms, while the waitresses wouldn't likely be accepted in public wearing harem pants "except on Halloween."

At the conclusion of his submissions, Wagner told the court that the tavern changed the uniform for waitresses only days after the two waitresses lost their jobs.