

CITATION: AB v Lutheran Church of Australia, Queensland District [2013] QCAT 118

PARTIES: AB, CD, EF
(Applicants)
V

First Respondent: Lutheran Church of Australia, Queensland District

Second Respondent: Ruth Butler
(Respondents)

APPLICATION NUMBER: ADL105-12, ADL106-12, ADL107-12

MATTER TYPE: Anti-discrimination matters

HEARING DATE: 11 February 2013

HEARD AT: Brisbane

DECISION OF: Clare Endicott, Senior Member

DELIVERED ON: 11 February 2013

DELIVERED AT: Brisbane

ORDERS MADE: **1. Leave is granted to the respondents to be legally represented at the directions hearing in these proceedings held on 11 February 2013**

CATCHWORDS: LEGAL REPRESENTATION – directions hearing – objection to appearance by a legal representative – leave granted for that appearance – whether in the interests of justice

APPEARANCES and REPRESENTATION (if any):

APPLICANT: EF appearing for all three applicants

RESPONDENT: Lutheran Church of Australia, Queensland District and Ruth Butler represented by Alistair MacPherson of Corney & Lind lawyers

REASONS FOR DECISION

[1] A directions hearing was held at QCAT on 11 February 2013 in these matters. EF appeared at the directions hearing by telephone on her own

behalf and on behalf of her daughter AB who is under 18 years of age. CD did not appear at the directions hearing.

- [2] Alistair MacPherson, a lawyer, appeared at the directions hearing for the respondents, neither of whom appeared in person.
- [3] Under the provisions of the *Queensland Civil and Administrative Tribunal Act 2009*, parties are to represent themselves in proceedings at QCAT unless leave is granted for the parties to be represented by some one else. EF objected to Mr MacPherson appearing as a representative for the respondents at the directions hearing.
- [4] I granted leave for the respondents to be represented by Mr MacPherson at the directions hearing only and I made directions for the respondents to file an application seeking leave to be represented throughout the proceeding. A decision will be made on that application later in the process.
- [5] The practice developed at QCAT for the conduct of anti-discrimination matters is to hold a directions hearing as the first event in the tribunal process. Most persons involved in these matters have no previous experience of QCAT and are unfamiliar with the tribunal processes. Some of these persons have had lawyers represent them during the complaint process at the Anti-Discrimination Commission Queensland and appear to be unaware that there is a statutory barrier against the continued use of lawyers when the complaint is referred to QCAT.
- [6] It is essential that the parties are informed about the initial steps in the QCAT process and that directions are made for the efficient conduct of the complaint through the Tribunal. The directions hearing performs that task. I have informed persons taking part in the initial directions hearing process that I will permit parties to appear in a variety of manners to facilitate directions being made as efficiently as possible in the matter. I permit parties to attend by telephone without a formal application to do so. I permit parties to appear via family members without a formal application for leave being made and indeed to appear through other representatives, including their lawyers on that same basis. However the parties are informed that any appearance by a representative after the directions hearing must only happen with the formal leave of the Tribunal.
- [7] It is in the interests of justice that the tribunal makes directions as early as possible in the life of a referred complaint. It is equally in the interests of justice that parties understand what they have to do to comply with the directions. At the initial directions hearing, I generally tell the persons appearing what is needed to be put into the filed contentions and I explain how a compulsory conference is conducted. I ask for their input into the timetable for filing documents and for holding the conference. I also answer questions about the process and explain that there is scope for the timetable to be extended if a reasonable request for an extension of time is made.

- [8] If I insisted that only parties could appear in person at the initial directions hearing, I would have to adjourn a large proportion of the initial direction hearings when all the parties did not appear in person. This would slow down the Tribunal's processes and would not be in the interests of justice.
- [9] I was satisfied on 11 February 2013 that it was fair and reasonable, and in the interests of justice, to permit Mr MacPherson to appear on behalf of the respondents so there could be an opportunity for some input to be given from them about the timetable for directions. I was also satisfied that it was fair and reasonable, and in the interests of justice, that EF could appear by telephone at the directions hearing and that she could speak on behalf of her daughter CD rather than adjourning CD's complaint to another date when CD could be present.