

Michael Corcoran, Tony Corcoran, Kathleen Ward, Martin Ward, Francie Stokes, Bridget Stokes (represented by Oliver Roche & Co., Solicitors) v The One Foot Inn, Burnfoot, Co. Donegal (DEC-S2007-004)

1) Reference Details

Jurisdiction: Irish Equality Tribunal

Date of Decision: 30 January 2007

Link to full case:

<http://www.equalitytribunal.ie/index.asp?locID=121&docID=1457&COMMAND=PRINTER>

2) Facts

The six complainants are directly related to each other and were all living in Derry (Northern Ireland) at the time of the incident in 2003. It was their custom at the time to go out together on Monday nights rather than at weekends when some were not available. On Monday, 23 June 2003, they all met in one of the family's houses around 5pm and agreed to go to the One Foot Inn where they had been on a number of previous occasions. Martin Ward drove the group the three or four miles to Burnfoot (County Donegal, Republic of Ireland) and they arrived at the pub before 6pm. They were refused service and asked to leave. They complained they had been discriminated against under the Equal Status Act 2003.

These complaints were referred to the Director of Equality Investigations under the Equal Status Acts, 2000 - 2004. The complaints were delegated to an Equality Officer, for investigation, hearing and decision.

3) Law

- Sections 3 of the Equal Status Act 2000 (discrimination)
- Section 5 of the Equal Status Act 2000 (disposal of goods and services)

4) Legal Arguments

The Applicant

The complaint was made by Michael Corcoran, Tony Corcoran, Kathleen Ward, Martin Ward, Francie Stokes and Bridget Stokes who alleged that they had been discriminated against, contrary to ss. 3(1) and 3(2)(i) of the Equal Status Act 2000, by the staff of the One Foot Inn on the basis of their membership of the Traveller community.

The complainants maintain that they were discriminated against in not being provided with a service which is generally available to the public, contrary to s. 5(1) of the Act. They claimed that when they arrived there were six or seven customers seated along the bar, and that when they were refused service the proprietor conceded that it was because they were Travellers.

The Respondent

The proprietor himself asserted that he was completely on his own when they arrived on 23 June 2003 and that there was no customers whatsoever in the bar at that time. He said that he did not recognise any of the group when they arrived and that he had never seen any of them in the pub before. He said that the group immediately went directly to the pool table and started to argue amongst themselves as to who would play pool first, and that he got the impression that they might attack each other. Because of the noise they were generating, he decided that he could not serve them under the circumstances. When he refused to serve them, they left very quickly. He emphasised that there was no reference to Travellers made in his conversation with them. He argued that he never had any problem with Travellers and that he regularly hosts Traveller weddings and christenings.

5) Decision

The Officer of the Equality Tribunal noted that there were two conflicting sides to the story. In considering whether the proprietor may have had sufficient justification for refusing service, the Officer took note of the fact that the incident happened at 6pm on a Monday evening, there was no indication that the complainants had previously been drinking, the complainants are all close relatives of each other, and they had just driven three or four miles together to enjoy a night out in each other's company. On this basis the Equality officer deemed it difficult to accept that they had suddenly become so threatening and argumentative in a pub as to warrant their immediate removal. On the balance of probabilities, the Officer found it likely that it was the group's Traveller identity that led to the refusal.

On this basis the Officer found that a *prima facie* case of discrimination has been established on the grounds of membership of the Traveller community in terms of ss. 3(1) and 3(2)(i) of the Equal Status Acts 2000 - 2004 and that the respondent failed to rebut the allegation. The Officer ordered that the complainants be paid the sum of €200 each for the upset and humiliation suffered on the night.