

Turned Away For Being Trans: What The Bar Lucky 7 Case Tells Us About Workplace Discrimination



Trans rights are facing alarming setbacks around the world. In the United States of America, there has been a recent wave of bans targeting trans people: from restricting access to gender-affirming care, to barring participation in women's sports and military service.¹ In the United Kingdom, a recent Supreme Court ruling redefined the legal concept of "woman" based on biological sex, raising fears of exclusion for trans women from gender-specific spaces.² And Canada is not immune: in Alberta, three laws passed in 2024 now limit access to care for trans youth, require parental consent for the use of chosen names in schools, and bar trans girls from participating in women's sports.³

Against this backdrop, the 2024 decision in *CDPDJ (E.B.) v. 9302-6573 Québec inc. (Bar Lucky 7)*⁴ by the Human Rights Tribunal of Québec stands out as particularly timely. It's the first time the Tribunal has ruled on a case involving gender identity or expression since these grounds were added to Québec's *Charter of Human Rights and Freedoms* ("Québec Charter") in 2016. It also offers clear takeaways for employers in Québec and across Canada seeking to understand and meet their obligations around gender identity and expression.

The facts

On March 29, 2017, E.B., a trans woman, applied for a waitress position at Bar Lucky 7 in Montréal. The manager contacted her shortly afterward and invited her to attend a training shift the following evening. The three-hour shift went smoothly: the employee who trained E.B. even praised the quality of her work. At the end of the evening, she was told that she would be contacted soon about her schedule.

E.B. decided to stay at the bar in the hope of thanking the manager in person. When he arrived, he invited her to speak with him privately. After asking for her thoughts on the training, he asked her directly if she was trans (which, as a separate point, was problematic in and of itself). E.B. said yes, clarifying that all her legal documents were up to date and that she is a woman. The manager immediately told her he could not hire her, citing his "old-fashioned" clientele and the fact that he did not want to have to defend her every day. He added that he had guessed she was trans based on the sound of her voice.

The next day, E.B., deeply shaken, wrote to him on Facebook and included an excerpt from the Québec Charter to remind him that his decision was discriminatory. He never responded. She was not hired, nor was she paid for her training or the tips she had earned during the shift. Beyond that, the incident had a profound impact on her mental health: she fell into a depressive state, experienced suicidal thoughts, and developed an intense fixation on her voice, which ultimately led her to undergo two vocal cord surgeries in the United States.

The Tribunal's conclusions

For the Tribunal, the evidence left no room for doubt: E.B. was denied employment because of her gender identity, which, on its face, constituted discrimination contrary to sections 4, 10, and 16 of the Québec Charter.

The Tribunal then turned to the justifications offered by the manager, namely concerns about E.B.'s safety and the preferences of the bar's clientele. Neither withstood scrutiny.

With respect to safety, the Tribunal reiterated that a hypothetical risk is not sufficient: in order to justify a discriminatory measure, the risk must be serious, substantiated, and amount to undue hardship. In this case, no such risk was established. Even where a real risk exists, the employer remains responsible, under the *Act respecting occupational health and safety*, for protecting staff from violence.

As for the preferences of the clientele, the Tribunal was equally clear: prejudice or discomfort on the part of the public cannot justify discrimination. Economic considerations do not take precedence over fundamental rights.

The Tribunal therefore concluded that the reasons advanced by the bar and its manager did not justify the infringement of E.B.'s rights and that she had been a victim of discriminatory hiring. It also found that the infringement was intentional, emphasizing the manager's complete lack of openness or willingness to reconsider his actions, even after being made aware, by both E.B. and another employee, that his decision was discriminatory.

As a result, the Tribunal awarded E.B. \$118.40 in material damages for lost income, \$10,000 in moral damages related to the depressive state, suicidal ideation, and medical interventions she underwent, and \$2,000 in punitive damages, to emphasize that such practices cannot be tolerated in Québec.

Takeaways

The *Bar Lucky 7* decision offers several important reminders for employers, particularly when it comes to hiring individuals who are trans:

- Hiring decisions must be based on objective criteria related to skills and qualifications, not on stereotypes or unfounded fears. A person's gender identity and gender expression have no bearing on their ability to do the job.
- Client preferences or concerns about potential backlash cannot justify a discriminatory decision. Business interests do not exempt employers from their duty to uphold fundamental rights.
- An employer cannot invoke safety risks as a pretext for discrimination. Even when a risk is real, employers must respond by protecting their staff, not by excluding those most at risk.

At a time when the rights of trans people are under threat, this decision serves as an important reminder: employers' human rights obligations must be applied

rigorously, regardless of social or commercial pressure.

Footnotes

1 See: R. Thoreson, “Trump Administration Moves to Reject Transgender Identity, Rights” (January 23, 2025), online (*Human Rights Watch News* Article): <https://www.hrw.org/news/2025/01/23/trump-administration-moves-reject-transgender-identity-rights>; B. Debusmann Jr, “Trump signs order banning transgender women from female sports” (February 6, 2025), online (*BBC news* article): <https://www.bbc.com/news/articles/c20g85k3z35o>.

2 See: Thomson Reuters, “British Supreme Court unanimously rules legal definition of a ‘woman’ excludes trans women’s identities” (April 16, 2025), online (*CBC news* article): <https://www.cbc.ca/news/world/uk-supreme-court-equality-act-ruling-1.7511411>.

3 See: A. Jeffrey, “Alberta legislation on transgender youth, student pronouns and sex education set to become law” (December 4, 2024), online (*CBC news* article): <https://www.cbc.ca/news/canada/calgary/alberta-legislation-on-transgender-youth-student-pronouns-and-sex-education-set-to-become-law-1.7400669>; M. Grant, “Court injunction sought against Alberta government’s new transgender youth health care legislation” (March 10, 2025), online (*CBC news* article): <https://www.cbc.ca/news/canada/calgary/legal-challenge-alberta-gender-affirming-treatment-law-calgary-court-1.7479396>.

4 *Commission des droits de la personne et des droits de la jeunesse (E.B.) c. 9302-6573 Québec inc. (Bar Lucky 7)*, 2024 QCTDP 9 (CanLII) [*Bar Lucky 7*]

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

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