

**ANTI-DISCRIMINATION COMMISSION  
NORTHERN TERRITORY**

**COMPLAINANT: Bernita Bernabe**

**RESPONDENT: Tony Myers**

**TRIBUNAL: Mr Tom Stodulka  
Hearing Commissioner**

**ISSUE: s. 73 - Application to join party**

**DATE OF APPLICATION: 4 July 2000**

**DATE OF DECISION: 23 October 2000**

## **Background**

Mrs Bernita Bernabe brought a complaint of victimisation against Mr Tony Myers pursuant to section 23 of the *Anti-Discrimination Act 1992* (the Act) on 7 October 1999. The complaint was accepted on 16 November 1999, and a *prima facie* decision in favour of the Complainant made on 20 April 2000.

The complaint related to incidents at Mrs Bernabe's place of employment, the Aboriginal and Islander Medical Support Service (AIMSS). Mr Myers was Mrs Bernabe's supervisor. Since the complaint was made, AIMSS has ceased to carry out the functions it had previously. Those functions are now being undertaken by Territory Health Services (THS).

Conciliation in relation to Mrs Bernabe's complaint was, for many months, impossible due to the illness of Mr Myers. Mrs Bernabe, in a letter dated 4 July, requested that the complaint proceed to Hearing. She also requested that AIMSS be joined as a respondent at that Hearing.

## **Section 73**

I have, today, published reasons for decision in an application to join a respondent at Hearing pursuant to section 73 of the Act in *Smith v Ciarla*. In response to that application, I determined that I do not have the power under the Act to join a party at the Hearing stage of the processes established by the Act.

Mrs Bernabe's application is, in all material respects, the same as the application in *Smith v Ciarla* which I have refused. Accordingly, for the same reasons I refuse the application to join AIMSS as a respondent to the present proceedings.

For the information of the parties I attach a copy of my reasons for decision in *Smith v Ciarla*.

## **Orders**

The application to join AIMSS is dismissed. The matter has already been listed for a further Directions Hearing on Friday 10 November at 10.00 am at which time I will issue directions for the conduct of the hearing between the Complainant and the Respondent.