

Values of the Justice System



Section 4

Resolving Disputes

Section 4 – Resolving Disputes

Time: 180 - 225 minutes

Description:

This section focuses on administrative decision-making agencies and other dispute resolution processes that take place outside of the traditional courtroom.

Background Information:

Administrative regulatory bodies, agencies and tribunals are created by statute to resolve conflicts that cannot or would not necessarily be brought to court. These administrative tribunals are decision-making bodies established by the government. The government appoints most of the people who serve on these bodies. Generally they are appointed for terms of three to five years. Some, but not all, of the appointees are lawyers. Administrative tribunals have rules and procedures, but these vary in complexity from agency to agency. Some agencies have formal proceedings which resemble court proceedings, and others do not. Some have investigatory roles. Each administrative tribunal or agency has its own area of responsibility and expertise. The authority or jurisdiction of each administrative body is set out by statute. The type of dispute or problem will determine which tribunal or agency is used to resolve the conflict.

There are many different dispute resolution processes parties can use to resolve their dispute without necessarily having a third party decision-maker like a judge or an adjudicator decide. Dispute resolution processes such as negotiation, mediation and arbitration, emphasize the parties' roles in resolving their problems and reaching a settlement of their dispute. Each of these processes provides for varying degrees of control by the parties over their dispute:

In **arbitration** the parties mutually agree to the appointment of the arbitrator who will make the decision about their dispute. This is a quasi-judicial process.

In **negotiation** the parties themselves reach an agreement with or without the help of others.

In **mediation**, a neutral third party assists the parties in negotiating a settlement.

These processes are beneficial because they are generally voluntary and flexible, and provide the opportunity for the parties themselves to decide on the rules and procedures. Parties can attempt arbitration, negotiation, or mediation at any time, even after a lawsuit is filed.

Arbitration, negotiation, and mediation have proven so successful in settling disputes that both the court and many administrative tribunals have adopted them. If a lawsuit has been filed, the Ontario Court requires parties to attend at least one Mandatory Mediation Session and a Pre-trial Settlement Conference. Some administrative tribunals also provide for mediation and pre-hearing conferences. While administrative tribunals can require parties to attend a pre-hearing conference, the great majority cannot force parties to attend mediation.

These dispute resolution processes are less costly and less time-consuming than litigation, which is why Mandatory Mediation was introduced in Ontario. These processes have also resulted in an increased number of cases being settled before trial which has reduced judicial caseloads and lessened the delay for trials involving other matters. Through negotiation, mediation, and arbitration the parties are able to design their own settlements which may involve interests that a court cannot address. Another advantage to these dispute resolution processes is privacy as the settlements are usually confidential. (Court and administrative tribunal processes are normally open to the public.)

Overall Expectations:

- ICV.03** - describe the main structures and functions of municipal, provincial and federal governments in Canada.

- ACV.02** - demonstrate an understanding of the various ways in which decisions are made and conflicts are resolved in matters of civic importance, and the various ways in which individual citizens participate in these processes.

Specific Expectations :

- IC1.03** - identify similarities and differences in the ways power is distributed in groups, institutions and communities (e.g. in families, classrooms, municipalities) to meet human needs and resolve conflicts.

- AC2.01** - compare and contrast different ways of resolving disputes (e.g. through the judicial process, through negotiation, mediation, arbitration, conciliation).

- AC2.02** - analyse important contemporary cases and issues that have been decided or resolved through the public process of policy formation and decision-making (e.g. mandatory retirement, censorship, racial profiling) taking into account the democratic principles that underlie that process.

Planning Notes:

While the various Grade 10 Civics texts give rather short shrift to dispute resolution processes outside of Courtroom adjudication, it should be noted that Grade 12 texts issued for the 2002-2003 school year at least give explanations of such concepts as negotiation, mediation, and arbitration. Prepare a reading or lecture on the basics of different dispute resolution processes from these or other sources. See the resource list at the end of this section for specifics.

- Arrange for a staff or student with experience in Peer Mediation to visit the class.
- Reproduce Appendices 4-1, 4-2, 4-3 and/or 4-4, as needed.
- Arrange for computer lab time, as activity 4-4 requires research on a specific website. If computer facilities are unavailable, the teacher may either download and reproduce information from the website, or contact the Office of the Ombudsman for printed materials.

Prior Knowledge Required:

While students will be unfamiliar with most of the material to be learned in this section, they should be familiar with the concepts of Rule of Law, justice and equity, mediation, negotiation and arbitration as these have been introduced in the previous activities of this mini-curriculum guide.

Teaching/Learning Strategies:

1. Suggest to students that legal disputes do not always go to a court for judicial resolution. Students should be informed, for example, that disputes between unions and employers go to the Ontario Labour Relations Board (OLRB) an administrative tribunal specifically designed for this purpose. At the OLRB, arbitrators hear disputes. Use other examples of disputes which are taken to administrative bodies such as human rights complaints (Human Rights Commission), complaints about physicians (College of Physicians and Surgeons of Ontario), a claim for severance pay, overtime or unpaid vacation (Employment Standards), violations of the Immigration Act and refugees claims (Immigration and Refugee Board), or problems between landlords and tenants (Rental Housing Tribunal).
2. While few of the students in the class will be intimately familiar with the concepts of negotiation, mediation or arbitration, most will have experienced these in some form or other, primarily through the various Peacekeeper-styled groups (such as Peer Mediation or Conflict Resolution teams) that are common in most schools. Determine if anyone in the class has had experience with such groups, either as a Peacekeeper, or perhaps as one who has been counseled by such a person. If possible, determine if a staff advisor or, better yet, a senior student who is involved in this sort of activity is available to come into the class to discuss his or her experiences with the project. You may wish to have each student prepare a question or two in advance of the presentation.
3. Use a pre-selected reading, board note, overhead, or lecture to explain that some party interests can be obtained in negotiation or mediation that cannot be obtained in court. Parties who use negotiation, mediation or arbitration to resolve their own disputes feel empowered. They gain flexibility in choosing and designing the resolution process. Suggest to students that there are also benefits in terms of money and time in using these processes rather than litigation and that the participants are able to safeguard privacy

and confidentiality. The teacher should also remind students that these processes are sometimes not appropriate i.e. in spousal abuse, medical malpractice, or refugee claims for example or in cases where confidentiality and/or privacy of settlements may not be in the public interest, i.e., in medical malpractice, disciplinary, or environmental cases.

4. Distribute Appendix 4-1. This is a matching sheet that lists various administrative agencies and boards in Ontario which are specially designed to adjudicate particular kinds of disputes between particular persons, companies or government. This sheet is not intended to be used as a quiz, but should be used as a starting point for discussion. Be sure that each student has a corrected sheet before moving on to Appendix 4-2.
5. Distribute Appendix 4-2. Students are to use the information found in the previous activity to do this assignment. Students are to read the case studies and answer the questions that follow. See the Accommodations section at the front of the Curriculum guide for alternative approaches to lessons such as these. Discuss student responses. This activity may also be done in pairs or small groups. Assign the five disputes to different groups and then have the pairs/groups report their responses.
6. Students may wish to use the suggested websites or professional literature to research responses to the questions posed in 4-2.
7. Distribute Appendix 4-3. After the negotiation games and role plays students should discuss and/or write brief commentaries on the concepts practiced and learned.
8. Discuss with the students the concept of sexual harassment and its significance as a reflection of the morals of a changing society. Provide students with a copy of Appendix 4-5, and have them work in pairs to discuss and complete this assignment.

Assessment/Evaluation Techniques:

1. Formative assessment of role in discussion and/or pre-prepared questions, if assigned.
2. Formative assessment of written responses to Activity 4-2.
3. Formative assessment of verbal responses and discussions in response to Activity 4-2.
4. Formative assessment of participation and comments/written responses to Activity 4-3.
5. Formative assessment of participation and comments/written responses to Activity 4-5.

Print Resources:

Blair, Costiniuk, O'Malley, Wasserman, *Law In Action, Understanding Canadian Law*, Prentice Hall Publishing, 2002, pages 358-360.

Non-Print Resources:

Office of the Ombudsman - Ontario

<http://www.ombudsman.on.ca>

<http://www.ombudsman.on.ca/french/french.asp>

Ontario Labour Relations Board

<http://www.gov.on.ca/lab/olrb/eng/what.htm>

<http://www.gov.on.ca/lab/olrb/fre/whatf.htm>

Ontario Municipal Board

<http://www.omb.gov.on.ca>

<http://www.omb.gov.on.ca/index-f.html>

Ontario Rental Housing Tribunal

<http://www.orht.gov.on.ca/main.html>

<http://www.orht.gov.on.ca/home-f.html>

Law Society of Upper Canada

<http://www.lsuc.on.ca>

<http://www.lsuc.on.ca/index.jsp?lang=f>

Ontario Human Rights Commission

<http://www.ohrc.on.ca>

<http://www.ohrc.on.ca/french/index.shtml>

Dispute Resolution Group, Financial Services Commission

<http://www.ripuc.org/regis/comishrules.html>

Canadian Motor Vehicle Arbitration Plan

<http://www.apa.ca>

<http://www.apa.ca/template.asp?lang=french>

Ontario New Home Warranty Program

<http://www.newhome.on.ca>

Canadian Banking Ombudsman

<http://www.bankingombudsman.com>

<http://www.bankingombudsman.com/ombud/french/pages/home/fhome.html>

Appendix 4.1

Matching Sheet - Various Administrative Tribunals and Agencies in Ontario

Match the agencies listed in the column on the left with their statutory role and purpose stated in the column on the right.

- | | | |
|--|-----|---|
| 1. Ontario Labour Relations Board | () | hears disputes between buyers and sellers |
| 2. Ontario Municipal Board | () | social workers etc. who mediate between individuals on family related issues (i.e. child custody) |
| 3. Ontario Rental Housing Tribunal | () | inquires into disputes between parties in which discrimination under the Ontario Human Rights Code has been alleged |
| 4. Ontario Ombudsman | () | hears complaints by employers and non-union employees concerning termination, severance, overtime and vacation pay |
| 5. Better Business Bureau | () | hears complaints between public authorities and those who oppose decisions, usually in matters dealing with land usage, zoning etc. |
| 6. Ontario Human Rights Commission | () | hears disputes between landlords and tenants |
| 7. Dispute Resolution Group, Financial Services Commission of Canada | () | receives complaints between individuals or bodies and the Government |
| 8. CAMVAP | () | provides mandatory mediation of disputes between insurance companies and claimants over claims involving motor vehicle accidents |
| 9. Ontario New Home Warranty Program | () | receives complaints from new home builders and new home buyers |
| 10. Mediation Services at Family Court locations | () | hears complaints about automobile manufactures from new car purchasers |
| 11. Canadian Banking Ombudsman | () | investigates complaints about banks |
| 12. Employment Standards | () | hears complaints and grievances made by employers, unions and union members |

Appendix 4.2

Disputes at Administrative Tribunals or Agencies

Read over the following case studies. For each scenario, decide which of the twelve Administrative Tribunals or Agencies listed in Activity 4-1 might be involved in resolving the dispute. Then answer the questions that follow.

1. Old Mr. Allen realized it was time for a new car when, on turning the ignition key in his 1991 minivan, he ended up with a face full of air bag. "Well, I got 300,000 klicks out of the thing," he rationalized. Taking \$20,000 out from under his mattress, he went out and purchased a brand new, right-from-the-showroom-floor Satellite 341Z Sports Coupe.

Overjoyed with his new purchase, he decided to take the car out for a ride in the country. Imagine his surprise when his brand new Satellite sputtered to a stop 200 kilometers out of town. Fortunately, he had broken down right outside of a garage, Gil's Lube and Fresh Bait Emporium.

"Ah think it's yer car-be-rater," said Gil, and set out to fix it.

Unfortunately, while Gil was fixing Mr. Allen's fuel system, a few fresh nightcrawlers fell unnoticed out of his breast pocket and into the gas tank.

Two hours later, Mr. Allen was back on the road. Even though his car didn't seem to be running just right, he decided to take the highway home to save time.

Again, his car sputtered to a stop. This time, Mr. Allen wasn't so lucky. As his car drifted slowly to the side of the road, a truck from Hux's Chicken Farms smashed into the car's rear end. Mr. Allen's car was a total wreck. He was now out \$20,000, and had no car.

- A. What Administrative Tribunal or Agency could Mr. Allen file a claim with to deal with his problem?
- B. There are two sides to every story, and in Mr. Allen's case, both he and the **Satellite** Automobile company will have points to make to the adjudicator. If you were Mr. Allen, what would be the core of your argument for compensation?
- C. What argument could the **Satellite** Automobile Company make on its own behalf?
- D. If you were the adjudicator called upon to make a decision in this case, how might you decide? (Keep in mind that you want to reach a decision that is right and fair.) Is **Satellite** totally responsible? Does Mr. Allen share some of the blame? Give reasons for your decision.

2. Julia was a first year student at The University of Northern Ontario in Huntsville, Ontario. Student housing in Huntsville was in short supply, but she managed to find a house to share with four other people. She met the property manager of the house, paid him a \$200 deposit in case any damage was done to the house during the year, and moved in.

Julia found out pretty quickly that her new housemates were slob. They let dirty dishes pile up for days on end, would forget to toss out the garbage, and had occasional food fights which resulted in condiment stains on the kitchen walls.

Julia did her best to be clean and orderly, but decided that she wasn't being paid to clean up her room-mates' messes: She kept her own bedroom clean, but decided not to deal with the rest of the house.

At the end of the year, after Julia had returned home, she got a call from the enraged property manager. "It's going to cost me a fortune to get the house ready for next year," the property manager yelled. "I'm keeping your deposit, plus I'm sending you a bill for \$500 dollars to cover my cleaning and painting expenses." Julia decided that this was unfair, and that she would not pay.

- A. To which Administrative Tribunal could Julia apply to have her case decided?
- B. Summarize the argument Julia will make before the Administrative Tribunal.
- C. Summarize the argument that the Property Manager will make on behalf of the owner of the property.
- D. If the parties decide they want to mediate their dispute before an adjudicator decides, how might the parties settle their disagreement? Would the parties' settlement be the same as the adjudicator's decision? Explain.

3. Mr. Skinner, the principal of Thames River Private School in Wingham, Ontario, looked over the class lists for his school. "Golly," he exclaimed. "Look at all those kindergarten kids. Old Mrs. Shaw will never be able to manage that lot by herself. It looks as if I will be able to hire an Educational Assistant for that class."

Mr. Skinner began the process of interviewing for the position. The candidate that Mr. Skinner liked best was Ms. Shiply. She was attractive, soft-spoken, seemed to be intelligent and caring, and gave a very good interview. Although she had a University degree in Communications from Moosenee University, she had no previous experience as an E.A. "What the heck", thought Mr. Skinner, "She looks like the right person for the job, and everybody has to start somewhere". He hired her for the position.

Things went well for a day or two. Ms. Shiply worked well with the children, and was so well-organized that Mrs. Shaw was able to slip away periodically to the copying machine. But one day soon thereafter, something unexpected happened. Ms. Shiply fell writhing to the floor, and began thrashing about. She was having an epileptic seizure. Eventually, the seizure subsided, but not without creating a great deal of pandemonium.

"This," decided Mr. Skinner, "will never do in a kindergarten class". The next day, he called Ms. Shiply into his office and told her that her services would no longer be required.

Ms. Shiply is determined to fight the decision.

- A. If Ms. Shiply decided she did not want to go to court to which Administrative Tribunal/Board might she complain?
 - B. Summarize the arguments Ms. Shiply could make before the board.
 - C. Summarize the arguments Mr. Skinner could make before the board.
 - D. This is a difficult case, but one in which a decision must be rendered nonetheless. If you were deciding this case, what would your decision be? Do you think this is a fair decision? Summarize your arguments for deciding the way you did.
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4. Old Bert Farnsworth looked out over the peace and serenity of the back fifty acres of his farm. Bert had worked the land on his farm for forty years, and had been looking forward to the day when he could finally retire, put up his feet, and gaze out over the rolling landscape without having to go and stick soybean seeds in it.

These days, however, Old Bert wasn't happy. He'd read in the newspaper that "The Goober-The-Clown Corporation" had purchased the farm next to his property, and had applied to construct a new amusement park there called "Gooberland". The township, seeing an opportunity to raise revenue from tourists and taxes, quickly moved to rezone the land from Agricultural to Commercial. It looked as if "Gooberland" was about to become a reality.

"Not without a fight," Old Bert promised himself. "Not without a fight."

- A. Where might Bert go to complain about what is happening?
- B. Realistically, what problems do you think Bert will face in this venture?
- C. What arguments do you think Bert will bring to the discussion?
- D. What arguments do you think the Township will bring to the table?
- E. Decisions made by adjudicators are decided according to the law. Usually that means that there is a winner and a loser. What other solutions might be available if the parties decide to mediate their dispute? What, in your opinion, might be a fair settlement between Bert and the Township? Does a compromise mean both parties are winners or that both parties are losers? Explain.

5. Jamie Chamberlain was a maintenance worker at a brick factory. His job was to fix just about anything that went wrong in the factory. One day, Jamie was informed that the asbestos lining inside a series of ovens would have to be removed. There was just one catch. The ovens could not be completely shut down because they would take too long to heat up again, and productivity might be lost. The foreman told Jamie that he and some other workers would have to work inside the ovens, where the temperatures would be maintained at 130 degrees Celsius. The foreman also said that because of the extremely high temperatures, the workers would only be required to work inside the ovens for sixty seconds at a time. Then they would have to rest for fifteen minutes before their next sixty second interval. The foreman said that a safety inspector would be on the spot to act as a timer for the workers inside the ovens. The foreman also said that the workers would receive a hefty bonus for doing the work.

Jamie realized that the strain on his heart would reach dangerous levels and told the foreman that he would refuse the assignment because he considered it unsafe. The foreman told Jamie that the work had to be done, and if Jamie would not do it, he would be fired, and replaced by someone who would. Jamie refused the assignment, and was indeed fired.

- A. To which of the listed Administrative Tribunals could Jamie present his case?
- B. Summarize Jamie's case against his employer.
- C. What counter arguments do you think the brick factory representatives will use against Jamie?
- D. If you were ruling on this case, what would you decide? (Keep in mind the need to be fair and equitable to both sides in the dispute.) Explain your answer.

Appendix 4.3

1. Negotiation Game: “Win as Much as You Can” (4 players)

Negotiator tactics range from cooperative to aggressive. Games theorists have proven that cooperative behaviour tends to increase the total value of any settlement to both parties. Aggressive behaviour tends to reduce the total value of a settlement, although one party may benefit more than the other. This game demonstrates this theory.

Negotiation Game “Win as Much as You Can”

There are 4 players in each group. Each player has a card marked “C” (for cooperative move) on one side and “A” (for aggressive move) on the other. The payoff for each player and each group as a whole depends on the combinations of Cs and As played on each round.

RESULTS PAY OFF SCHEDULE

4 As	Lose \$1 each
3As 1C	As win \$1 each C loses \$3
2As 2Cs	As win \$2 each Cs lose \$2 each
1A 3Cs	A wins \$3 Cs lose \$1 each
<i>4Cs</i>	<i>Win \$1 each</i>

A game consists of 10 rounds. Each round, you decide whether to play a “C” or an “A”, then place your card on the table with your hand covering the letter. When all four players are ready, you all remove your hands at the same time to show what letter you have played. Record your scores for each round on the accompanying score sheet.

You may not discuss strategy except at the bonus rounds (5, 8, and 10) as indicated on the score sheet. Before each bonus round you have 3 minutes to discuss strategy, although you remain free to play as you choose despite any decision by the group. On bonus rounds, you multiply your score by 3.

It is **ILLEGAL** for the group to bypass the game and simply fill in the score sheets, or for players to let others see how they intend to play the upcoming round.

If all the members in a group play a C on every round, you could hypothetically earn \$16 each for a group total of \$64. If you use an aggressive strategy, it is only profitable if you earn more than \$16.

SCORE SHEET

<i>Round</i>	<i>Time Allowed</i>	Group Discussion	<i>Multiplier</i>	<i>Gain or Loss</i>
1	30 seconds	no	No	
2	30 seconds	no	No	
3	30 seconds	no	No	
4	30 seconds	no	No	
5	3 minutes	yes	Multiply score by 3	
6	30 seconds	no	No	
7	30 seconds	no	No	
8	3 minutes	yes	Multiply score by 3	
9	30 seconds	no	No	
10	3 minutes	yes	Multiply score by 3	
			YOUR TOTAL SCORE	

When you are finished, choose a group member to record the scores of each player in the group and the total score for the group.

Your score _____ Player 2 _____ Player 3 _____ Player 4 _____
 Total Group Score _____

2. Negotiation Role Play

Two student groups have to decide which group gets to use the gym during the lunch period. One group is the soccer team the other is the band. The soccer team is scheduled to play in the finals of the provincial championship. This is the first time the school has been in the finals. The members of the team have been unable to practice on the school field. It is absolutely essential that the team trains together for the event during the day as well as after school.

The band has been invited, for the first time, to participate in a city-wide concert of school bands. If the band plays well at the concert it could be invited on a world tour. The band can only practice at noon since several members have after school jobs.

Students must negotiate to solve this dilemma.

Note: The purpose of the negotiation is to have the students “expand the pie”. While there may appear to be a fixed number of resources, one gym and one lunch period, the students should be encouraged to explore each group’s interests and needs. By exploring these interests, students may be able to arrive at solutions which can satisfy the needs of each group and which are more creative than “one gets it to use the gym and the other does not”.

3. Mediation Role Plays

In these conflict situation role plays, students try to negotiate an agreement to end their dispute with the help of a mediator. The mediator assists the parties with the negotiations.

Mediation Process: Ground Rules and the Mediator's role

1. Neither party should interrupt the other. The mediator helps enforce this rule.
2. Parties are angry, but neither party is allowed to abuse the other party or the process by swearing, yelling or trying to intimidate the other.
3. The mediator is neutral – he or she does not favour one side or the other. The mediator must not fix the problem or decide for the parties how to settle their dispute. The parties make the deal.
4. The mediator's role is to assist the parties in communicating openly, to put both sides of the story on the table, to enable the parties to get beyond their positions and recognize underlying shared interests, and to assist the parties in reaching a settlement that will permit them to live as neighbours without future lawsuits or police action.

Remember:

The mediator's role is not to make the agreement or determine which agreement is best: The role of the mediator is to promote communication between the parties.

Scenario #1:

Chris is 18. He has recently moved to a new neighborhood. Chris likes music, the louder the better. Chris frequently invites friends home on weekends. These informal parties can get pretty loud, but the friends usually try to keep it down, especially when Chris' parents are home. Sometimes, however, Chris' parents have to be away from home. On occasion, particularly when the weather permits, the parties move outdoors to Chris' front lawn where they will eat pizza that has been ordered. Sometimes Chris and his friends forget to clean up after eating and leave the pizza boxes and soda bottles on the lawn, or even in the street. One night during a party, the police arrived and told Chris that a neighbour had complained about the noise. The party ended, but the next day the neighbour's car got two flat tires when it ran over glass bottles that had been left in the neighbour's driveway. About a week later, Chris' parents received a letter from a lawyer saying that the neighbour wants \$1000 to buy four new tires for his car, and threatening Chris with a lawsuit if he does not put an end to all parties at the house.

Chris' parents have a lawyer friend who advises them that Chris has a good defense. It will be hard to prove Chris deliberately damaged the tires. This lawyer suggests that \$1000 is too much money for used tires and questions why Chris should be responsible for four tires instead of two. She says that a court cannot order Chris not to have parties and that, while she would be happy to defend Chris, her fee is \$200 per hour.

Leslie is 65. Leslie is retired. He gets up early and likes to go to bed early as well. Leslie has lived in the same house for 35 years. About a year ago, the house next door was sold to a family with an 18 year old. This was the first time a teenager had lived next door in a very long time. Leslie loves classical music and frequently plays it at home, but when the weather is good and his windows are open he can barely hear his own music because of the loud rock music blaring from the neighbour's house. Leslie is away from home most of the week visiting his elderly aunt, so he really looks forward to quiet weekends. It seems to him that now, every weekend, he is unable to enjoy his music or even sit out in his yard, since there are huge parties going on next door. He has never seen so many teenagers. He can't believe some of the clothes they wear. He notices that sometimes the teens sit outside to eat. Leslie frequently finds garbage on his property after these parties. Recently the noise was so loud he called the police. The next day when he drove out of his garage, he ran over some glass bottles which were on his driveway. Leslie believes Chris left the bottles on purpose because of the complaint to the police. Two tires were cut by the glass. The tires are about 3 years old, but were still good for another season. While only two tires were damaged, these were specially made European tires which must be bought in sets of four. The tires cost \$250 each. Now all four must be replaced immediately. Leslie wants to sue Chris for the money to replace the tires and he wants a court to ban weekend parties after 10 p.m.

Leslie has a lawyer friend who wrote a letter to Chris' parents asking for the \$1000 and threatening a lawsuit; however, the lawyer also advised Leslie to mediate his dispute with Chris as Chris is a neighbour and would probably be living next door to him for a long time. The lawyer is not sure that there is enough evidence to prove that Chris was responsible for the damage to the tires. The lawyer also warns Leslie that since the tires weren't new, even if Chris were found liable, Leslie may not get all the money he wants. In addition, litigating may be much more costly than settling the dispute.

Students should answer the following questions.

1. Most disputes are about the “rights” of the parties.
What rights did Chris have?
What rights did Leslie have?
2. Courts decide about legal rights and who wins and who loses.
If this dispute went to Court, who do you think would win and why?
Would one side “winning” at court help Chris and Leslie’s relationship as neighbours?
Explain.
3. In this dispute were there problems between Chris and Leslie that a Court could not decide?
Could a Court tell Chris he could not have friends over?
Could a Court order music to be played at a particular level?
Would a Court want to decide these things?
How could such a Court order be enforced?
Explain your answers.
4. Why might mediation be a better process for settling the dispute between Chris and Leslie?

Appendix 4.4

The Office of the Ombudsman

Access the website of the Ombudsman of Ontario (www.ombudsman.on.ca).

Use the information you find there to answer the following questions.

- A. What does the Ombudsman do?
- B. How can the Ombudsman help an individual?
- C. What can't the Ombudsman do?
- D. How does one register a complaint with the Ombudsman?
- E. Does it cost anything to file a complaint with the Ombudsman?
- F. Copy and colour the symbol of the Ombudsman's office. (This can be found in the top right-hand corner of the website's homepage).

Appendix 4.5

“MANAGER SEXUALLY HARASSED FEMALE COLLEAGUES”: Canadian Human Rights Tribunal

Ottawa – June 19, 2002 – The Canadian Human Rights Tribunal has ruled in favour of four women who suffered varying degrees of sexual harassment from their former manager, in contravention of section 14 of the Canadian Human Rights Act.

Kindra Woiden, Lisa Falk, Joan Yeary, and Sharla Curle each filed a complaint with the Canadian Human Rights Commission in December 1998, alleging that Dan Lynn, of Skycable Inc. in Brandon, Manitoba, sexually harassed them on the job. They claimed that Lynn made inappropriate remarks, sexual advances, and derogatory comments to them on an ongoing basis. In fact, the women said the harassment and abuse of authority by Mr. Lynn was so bad that they each went on sick leave, eventually resigning from their jobs.

"There was a time when women had no choice but to tolerate sexual harassment in the workplace," noted the Commission's Acting Chief Commissioner, Anne Adams. "Thankfully, Canadian women today have the protection of legislation against this entirely inappropriate behaviour."

In its ruling, the Tribunal ordered Mr. Lynn to pay the four women various amounts in lost wages, ranging from \$698 to \$13,979 and compensation for hurt feelings from \$6000 to \$8000 each. In addition, he was ordered to pay \$10,000 each in special compensation for reckless or willful conduct. Finally, he must follow training and counselling and provide a letter of apology to three of the complainants.

The Tribunal's decision is particularly significant because the respondent was the complainants' supervisor and was found to be personally liable for the harm they suffered.

"I hope this ruling also sends a clear signal to women faced with this kind of abuse in the workplace. The Canadian Human Rights Act is there to protect them. If they are being subjected to sexual harassment, they need to speak up for their rights," Ms. Adams concluded.

The women had also filed complaints against their former employer, Skycable Inc., which were later withdrawn when the parties reached a settlement in 1999.

http://www.chrc-ccdp.ca/news-comm/2002/NewsComm061902_2.asp?l=e

Topics for Discussion or Written Response:

Give examples of inappropriate remarks, sexual advances, and derogatory comments made in a classroom environment. Give examples of what can be considered as sexual harassment in the work place.

What is the Tribunal's decision?

Do you think this ruling is fair and equitable to both sides in the dispute? Explain your answer.

Why is the Tribunal's decision particularly significant?
