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Benefit fight matter of fairness - Bigney

Gay man refuses to be treated as '2nd-class citizen'

By Sherri Borden
Staff Reporter

Jim Bigney is waiting for the day he won't have to fight for equal rights just because he's gay. "I find it abhorrent that you (the federal government) want my votes, you want my taxes but you don't want to treat me

equally," Mr. Bigney said at a news conference Wednesday to talk about why he's suing the federal government for survivor benefits under the Canada Pension Plan.

"I refuse to be a second-class citizen."

The Halifax man lived with his partner, John Morrow, for 12 years until Mr. Morrow died of AIDS in November 1993.

Throughout their relationship, Mr. Bigney and Mr. Morrow publicly represented themselves as being in a spousal relationship. Mr. Bigney also cared for Mr.

Morrow during his six-month battle with AIDS.

"I took care of him. He was my partner and I was doing for him what anyone would do for their spouse as someone you love deeply," he said.

Mr. Bigney filed his lawsuit in Nova Scotia Supreme Court in Halifax last week.

"This has never been planned," Mr. Bigney told reporters Wednesday. "Today's step in court is a continuation of a fight which began six years ago as John lay in hospital."
In December 1993, Mr. Bigney

applied for a surviving spouses' pension under the Canada Pension Plan.

But in February 1994, he was advised he did not fulfill conditions of eligibility because the plan defines a spouse as someone of the opposite sex.

Mr. Bigney is challenging the definition of spouse, added to the act in 1987, because it excludes people based on their sexual orientation.

In his lawsuit, he asks that "spouse" be redefined to include same-sex partners under the act. He also asks for Mr. Morrow's

Canada Pension benefits and for legal costs.

Mr. Bigney claims that the definition of spouse violates a section of the Canadian Charter of Rights and Freedoms that guarantees that everyone be treated equally under the law without discrimination.

Plans to extend benefits to same-sex partners of federal government employees are already in the works.

"We are encouraged to see that government is now actively and publicly talking about making changes that would make it un-

necessary, if those changes were implemented," Halifax lawyer Anne Derrick said. "But until those changes are made law, there is a necessity for litigation."

Ms. Derrick said it could be several years before the civil suit goes to trial.

Mr. Bigney, a former employee with the Department of National Defence, also said homophobia and lack of support from his employer forced him to leave his job four years ago by taking a buyout. The federal government has not yet filed a defence.