

NOVA SCOTIA



Pride in the face of prejudice

Grief of losing partner to AIDS mingles with joy of victory in CPP benefits case

By Sherri Borden
Court Reporter

Growing up in a working-class family, Jim Bigney knew at a young age that he was "different."

One of nine children, he also knew on some level that he could empathize with people who were being discriminated against because of certain characteristics.

"All my life, I don't know if I'm missing something but it always made me sad to think that people were being killed or denied dignity based on their religion, ethnic background, or their skin colour—I could never comprehend that," Mr. Bigney said in an interview.

Mr. Bigney revealed he was gay when he was 23 or 24.

But during his 52 years, his challenge of the status quo has gone beyond fighting discrimination against gays and lesbians.

And since November 1993, the Halifax man has fought for Canada Pension Plan survivor benefits after his partner John Morrow died of AIDS.

The couple lived together from March 1982 until Mr. Morrow's death at age 36.

Mr. Bigney sued the federal government in March 1999, challenging the definition of spouse under the Canada Pension Plan Act because it excluded gays and lesbians.

On Jan. 26, Mr. Bigney dropped his lawsuit shortly after he and the government settled.

Under legislation adopted last year, gay and lesbian couples receive all the spousal rights,

benefits and obligations of heterosexual couples for tax, pension and other purposes.

"The other good thing of winning this case and being part of a wave of a number of people across this country who have stood up and challenged the status quo is that it is now law," Mr. Bigney says. "That may not eradicate homophobia, that may not do too much for some people in certain areas who think that being gay is abhorrent—but what it does is makes us legitimate people."

His suit, he says, was not about money—but about principle.

"Because of my personality and because of who I am, I could not walk away from this and be silent, anymore than I would stand and watch someone beating up a child—you get involved (and say) that is not acceptable." CPP benefits increased by 2.5 per cent Jan. 1, raising the maximum monthly survivor's benefit to \$428.70 for those 65 or under.

Michael Donovan, head of civil litigation for the Justice Department's Atlantic region, said the suit was settled following changes to CPP legislation.

"Essentially, there were a number of lawsuits pending that made allegations about the old legislation and then when the legislation was changed, a decision was made to try to resolve these and Mr. Bigney's case was one of several across the country," Mr. Donovan said.

Neither Mr. Donovan, Mr. Bigney nor Mr. Bigney's lawyer, Anne Derrick, would disclose

details of the settlement.

"All I can say is the settlement was intended to put him (Mr. Bigney) in the same position he would have been in if he'd been in a common-law relationship," Mr. Donovan said.



A native of Saint John, N.B., Mr. Bigney has made Halifax his home since 1979.

The former Department of National Defence employee said homophobia forced him to leave his job in 1995 by taking a buyout.

He has worked various jobs over the past five years and is currently unemployed.

He has a psychology degree, a diploma in substance- and alcohol-abuse counselling and one year of theatre studies.

Despite the settlement, Mr. Bigney has paid a high price by going public with his case.

"Being in the media has certainly not helped my career, but again, I have to say that I am proud, very proud, of what I've done. It has cost me my job—all my money, I've had to sell furniture to live. It's cost me friends, some bad feelings—if not absolute rejection—by family members on both sides."

But his greatest loss was Mr. Morrow.

Still facing much pain and loneliness, the grieving process has not yet ended for Mr. Bigney. "I'm dealing with the loss of

someone I'm continuing to miss and love," Mr. Bigney said. "And, of course, without the support of both families, you feel like you're pulling the whole train by yourself."

During the interview, Mr. Bigney remained composed until he spoke of the hopelessness he felt while watching his partner slowly slip away. Mr. Morrow was diagnosed with AIDS in July 1993, just six months before his death.

Tears welling in his eyes, Mr. Bigney said: "It was from that day on that I decided to focus entirely, no matter what, on what I could do as his partner. I had decided to make his quality of life the best I could possibly make it."

His lawyer, Ms. Derrick, commended his determination, courage and integrity.

"For him this was a very long struggle... It wasn't about the money, it was about being accorded his equality rights and ensuring that other gays and lesbians were also accorded those rights," Ms. Derrick said.

Granting benefits to same-sex couples, she said, is a partial recognition that there's no societal justification for discriminating against survivors of same-sex couples.

"It's an important foundational piece in the effort to try and construct an egalitarian society... We don't have an egalitarian society if gays and lesbians are being discriminated against."

Calling the legal challenge the biggest he's ever taken on, Mr. Bigney says he has no regrets. "I'd do it again a thousand times over."