

# WORKPLACE ACCOMMODATION AND AUDIT-BASED EVALUATION PROCESS FOR COMPLIANCE WITH THE EMPLOYMENT EQUITY ACT: INCLUSIONARY PRACTICES THAT EXCLUDE—AN INSTITUTIONAL ETHNOGRAPHY<sup>1</sup>

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**Abstract.** Matt kept the operable window in his office open all the time because he needed unlimited access to fresh air. This was terminated after a heating, ventilation, and air conditioning system was installed in his Government of Canada office building. Once Matt's access to fresh air was mechanically controlled through externally developed air quality standards, the workplace became a barrier for him. Matt was diagnosed with a disability known as environmental sensitivity because he became ill every time he spent more than 45 minutes inside his office building. Yet, according to a textually mediated assessment of Matt's workplace performed by a Compliance Review Officer from the Canadian Human Rights Commission, his workplace was barrier-free. Using Dorothy E. Smith's institutional ethnography, this paper explicates how the social organization of workplace accommodation and compliance — processes that were developed to promote inclusion — are exclusionary.

**Key Words:** workplace accommodation; recursion; Employment Equity Act; institutional ethnography; disability studies; environmental sensitivity

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**Résumé.** Matt gardait la fenêtre mobile de son bureau ouverte en tout temps, car il avait besoin d'une source illimitée d'air frais. Cette habitude a pris fin lorsqu'un système de chauffage, de ventilation et de climatisation a été installé dans l'immeuble du gouvernement du Canada où il travaillait. Une fois que l'accès à l'air frais dont Matt profitait a commencé à être contrôlé mécaniquement conformément à des normes externes de qualité de l'air, son milieu de travail est devenu un obstacle pour lui. Matt a été réputé souffrir de sensibilité à des facteurs environnementaux, car il devenait malade dès qu'il passait plus de 45 minutes dans l'immeuble où il travaillait. Cependant, selon une évaluation du lieu de travail de Matt qui a fait l'objet d'une médiation documentée et qui a été menée par un agent d'application de la Commission canadienne des droits de la personne, on a conclu que le lieu de travail de Matt ne comportait pas d'obstacles. À l'aide de l'ethnographie institutionnelle de Dorothy E. Smith, le présent document vise à expliquer comment l'organisation sociale des aménagements en milieu de travail et de la conformité – des processus qui ont été mis en place spécifiquement pour promouvoir l'inclusion – sont en fait exclusifs.

Mots clés: aménagements en milieu de travail, récursivité, Loi sur l'équité en matière d'emploi, ethnographie institutionnelle, études sur l'incapacité, sensibilité à des facteurs environnementaux.

## INTRODUCTION

**A**s stipulated in the Department of Justice Canada's (1995) Employment Equity Act (EEA), federal government departments and agencies are required to recruit and retain persons with disabilities in numbers proportional to their availability in the labour market. Through its audit-based evaluations for compliance with the EEA, auditors working with the Canadian Human Rights Commission (CHRC) verify that government departments and agencies meet this and other legislative requirements, including the accommodation of persons hired with disabilities. This paper explicates how the social organization of workplace accommodation and compliance — processes that were developed to promote inclusion — are exclusionary.

Prior to 1999, a person in a wheelchair who was unable to climb up a set of stairs to get to her/his workplace was compelled to ask for a ramp. That ramp was perceived as the fix or cure required by the person in a wheelchair and is commonly referred to as workplace accommodation. After the Meiorin<sup>2</sup> Supreme Court of Canada ruling of 1999, accommodation was refocused from fixing the individual's problem to transforming our workplaces to meet the needs of all types of workers from the outset.

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2. British Columbia (Public Service Employee Relations Commission) v. British Columbia Government and Service Employees' Union (B.C.G.S.E.U.), [1999] 3 S.C.R. 3, referred to as the *Meiorin* case.

In 2002, the Treasury Board Secretariat of Canada, the umbrella organization for 74 or so federal government departments and agencies, released a policy which reflected the outcome of the Meiorin case: it treated accommodation as a method of organizational transformation.

Since most federal departments and agencies have now been found to be in compliance (Michel Lefebvre, personal communication, December 13, 2010)<sup>3</sup> with the EEA, there should be a concomitant reduction in the number of human rights complaints based on the prohibited ground of disability. However, according to the Commission's annual reports for the period 1994–2004, there has been a 64% increase in the number of complaints based on disability in the five-year period after Meiorin compared to the five-year period prior to it. The bases for these complaints include such things as differential treatment, failure to accommodate, refusal to hire, and termination of employment. How could this be happening? It is an issue which we discuss amongst ourselves particularly at conferences like the ACCESS conference for disabled federal public servants, hosted tri-annually by the Public Service Alliance of Canada.

Michael Oliver (1992) would argue that academic research on disability often contributes to these types of discrimination, which many of us who work for the federal public service continue to experience in our everyday working lives. Furthermore, he writes that researchers in the field of disability studies need to change the social relations of their research and adopt an emancipatory research paradigm. This paper is, in part, my response to Oliver's call for emancipatory research.

I used for my research an emancipatory method of investigation called institutional ethnography (IE). IE was developed by Canadian sociologist Dorothy E. Smith (1987, 1990a, 1990b, 2005) in the mid-1980s as an alternative sociology for people who are marginalized. This paper was carved from the experiences of one of the 38 persons with disabilities I used for my doctoral studies (Deveau 2008) on workplace accommodation for federal public servants with disabilities. I shall refer to this person as Matt.

What distinguishes this study from the fine work done on workplace accommodation by Harlan and Robert (1998) and Gibson and Lindberg (2007) is that my research is not so much about the particular challenges encountered by a disabled worker in seeking her/his accommodation at the local level, but on how those challenges are hooked into textually mediated work processes originating at the macro level. In fact, by using a person's experience at the local level as a door through which powerful translocal forces can be mapped, IE bridges the divide sociologists have

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3. Mr. Michel Lefebvre is a supervisor with the Employment Equity Compliance Division of the Canadian Human Rights Commission.

created between the micro and macro (Campbell 2003; Smith 1987:99). Unlike the previous studies mentioned which are *about* persons with disabilities in the workplace, my study is *for* persons with disabilities, so that they and their allies can gain a thorough understanding of how the material conditions they encounter in their everyday lives are operating for someone else's benefit. It is only with that type of knowledge that we can inform our praxis, and work towards ending the ongoing discrimination against us in the workplace.

My research approach conforms with Karen Jung's (2003) study on chronic illness and accommodation. It is also methodologically similar to that of Vera Chouinard's (1995) research on the challenges she faced in getting her accommodation as a faculty member of McMaster University and with Davidson's (2010) study on how people with autism struggle with their accommodation, as both of these studies are done from the standpoint of the disabled.

#### **MATT'S EVERYDAY WORLD AS PROBLEMATIC**

In 1990, when Matt first started working for a federal government department at a place I shall call the Research Centre (RC), he had access to an operable window which he kept open at all times. This provided him with unlimited quantities of fresh air, that is, air which moved through natural convection from the outdoors indoor. Then, in 2001, a central heating, ventilation, and air conditioning system (HVAC) was installed in Matt's newly renovated building. Fresh air now only accounted for about 20% of the air that was circulated in the building. The rest was air that was recirculated from inside the building.

Not long after Matt moved into the newly renovated building, he started experiencing health problems. Within 45 minutes of being inside the building, his head would feel stuffed up; he found himself gasping for air, and he felt nauseated. The building became a barrier for Matt because he was unable to adjust to the new air quality standards. Matt all but resigned himself to teleworking from home. According to his employer, the building was renovated using the best air quality standards so that if Matt experienced difficulties working in the building, it was attributed to environmental sensitivity, which was designated a disability.

People with environmental sensitivities experience negative reactions to various agents in their immediate environment below the level considered to be unsafe or to affect the average person (Gibson and Lindberg 2010). As far as Matt was concerned, his negative reaction to the air quality in his building was no different from that of someone having an

allergic reaction to cats or dogs. Matt did not agree with his employer's perspective that he had a disability. His experience was that the barriers to his workplace inclusion were caused by the air quality in his building. Therefore, the building needed fixing, not him.

Matt's way of knowing about this situation is known in IE terms as the *experiential way of knowing*. It differs from his employer's interpretation which is called the *ideological way of knowing* (Smith 2005). From this ideological perspective, the barriers that people with disabilities face are understood as the result of their individual illness or condition. Managing disability thus is focused on identifying what is wrong with an individual (i.e., symptoms/illness/disability) and then trying to fix or cure that individual's problems. Being told one thing by his managers but knowing differently from first hand experience gave rise to a situation in which two ways of knowing about the same thing collided with each other at what institutional ethnographers call a *line of fault*. It is here that a *problematic* — research question — originates. In this paper, I examine interactions on both sides of this line of fault. The first part of my analysis focuses on how Matt's activation of his department's workplace accommodation policy hooked him into the ideological way of knowing disability which is that of a biological condition.

Coincidentally, Matt's activation of his departmental policy occurred in July 2004, the same month and year that the CHRC found Matt's department to be in compliance with the provisions of the EEA.

Since Matt's building was renovated three years after the Meiorin decision, the renovations should have incorporated air quality standards that reflected the needs of all types of workers including people like him. Since this is not what happened, it suggests that, contrary to the CHRC's ruling, Matt's workplace was not barrier-free. So, how has Matt ended up excluded from the "barrier-free" RC more than a decade after the Meiorin ruling? As we will see from the second part of my analysis, a series of parallel processes and disconnects between various policies and processes within the RC and the broader legislative environment explain how this happened.

#### MAKING AN EPISTEMOLOGICAL AND ONTOLOGICAL SHIFT

I based this research on the knowledge that concepts like "environmental sensitivity," "disability," "accommodation," and "compliance" are infused with meanings that arise from various record-keeping, documenting, inscribing, and other work practices developed by academia and government bureaucracy (Smith 1990a:74). The generalized prac-

tices that assign meaning to these concepts and which protect an established set of relationships amongst health care professionals, government administrators, academia, and other powerful institutions is referred to as the ruling relations (Smith 2005:10).

Making an epistemological shift means abandoning this objective knowledge of disability and embracing Matt's standpoint on the issue. Matt's standpoint is that disability is the condition that arises from the everyday interactions of persons with disabilities with work environments conceived by a ruling apparatus which often refuses to recognize disability as a legitimate "way of being" for a person in the everyday world. Matt's reflexive knowledge is often referred to as a "social model of disability" (Thomas 1999).

The social model's focus on societal level changes rather than individual level fixes has gained ground in a number of Supreme Court of Canada (SCC) rulings, such as the *Eldridge*,<sup>4</sup> *Meiorin*, and *Grismer*<sup>5</sup> rulings. In the *Meiorin* case, for instance, employers were required to develop their workplaces to meet the needs of all types of workers from the outset, insofar as this was reasonably possible.

This epistemological shift in understanding of accommodation was inscribed in the Treasury Board of Canada Secretariat's 2002 Policy on the Duty to Accommodate Persons with Disabilities in the Federal Public Service (henceforth TB Policy). According to this policy, accommodation

refers to the design and adaptation of the work environment to the needs of as many types of persons as possible and, according to the Supreme Court of Canada, refers to what is required in the circumstances of each case to avoid discrimination.

The TB Policy explicitly states that only if barriers to workplaces cannot be removed, can individualized accommodations be justified. Yet, despite these court rulings and the precociousness of the TB policy, the social relations of accommodation *somehow* continue to be organized as individual fixes to allow those who are different to fit into the workplace as it is.

IE uses as its ontological foundation (touchstone) the idea that our daily interactions with one another and with the material things that surround us create what we know and recognize as society or in IE terms, the social. The ultimate goal of an IE is to map out *how* a corner of the

4. *Eldridge v. British Columbia (Attorney General)*, [1997] 3 S.C.R. 624, referred to as the *Eldridge* case.

5. *British Columbia (Superintendent of Motor Vehicles) v. British Columbia (Council of Human Rights)*, [1999] 3 S.C.R. 868, referred to as the *Grismer* case.

social, which is of particular interest to us, works (DeVault and McCoy 2006; Smith 2005). Throughout this paper, then, the emphasis is on figuring out *how*, as opposed to, *why*, things happen as they do. This is called making an ontological shift (G.W. Smith 1988), which I will explain with the following example. From his employer's perspective, Matt suffered from environmental sensitivity, a concept that exists only on paper. Its exclusionary power comes from specific courses of action that some largely unknown people take. Who are those people and how do their coordinated work activities give power to this concept? This is what I aimed to discover in my investigation.

By discovering how Matt has come to be excluded from a workplace that has been deemed barrier free by the CHRC, we will reveal the disjuncture between internal federal policies on accommodation and the current legislative standards to which the federal public service is upheld by law.

#### INSTITUTIONAL ETHNOGRAPHY

Atheoretical itself, institutional ethnography combines symbolic interaction's understanding of the coordinating power of language, ethnomethodology's investigations of the unwritten rules of social interaction, Marxist attention to the material conditions of everyday life, and feminism's consciousness raising (Smith 2005). This unique collage of theoretical flavours provides institutional ethnographers with a skill set to investigate how generalized work practices (e.g., accommodation and compliance) developed translocally affect the everyday lives of people in a local setting.

According to IE epistemology, texts form an integral part of the ruling relations. In IE, texts are replicable (hard copy or virtual) materials like government policies, photographs, and videos that anyone who reads, sees, or hears interprets in the same manner whether that person is here, there, or elsewhere.

Examples of texts include such things as the library card we use for signing out books and other reference materials from the library, our driver's license, birth certificate, and the authority requests (AR) government employees like Matt need to complete before travelling.

After accessing either a hard or electronic copy of this form, we engage in what Smith (2005) has called text-reader conversations meaning that one party, the text, provides the categories in which the other party, the reader, enters the particulars of the situation. After entering our name, destination, travelling dates, and approximate travel costs in the appro-

priate categories on the form, it is signed and submitted to a manager for approval. Our signature on the AR gives the text agency, meaning the AR becomes the signer and takes on an *active* role in the textually mediated process of getting us from point “A” to point “B.”

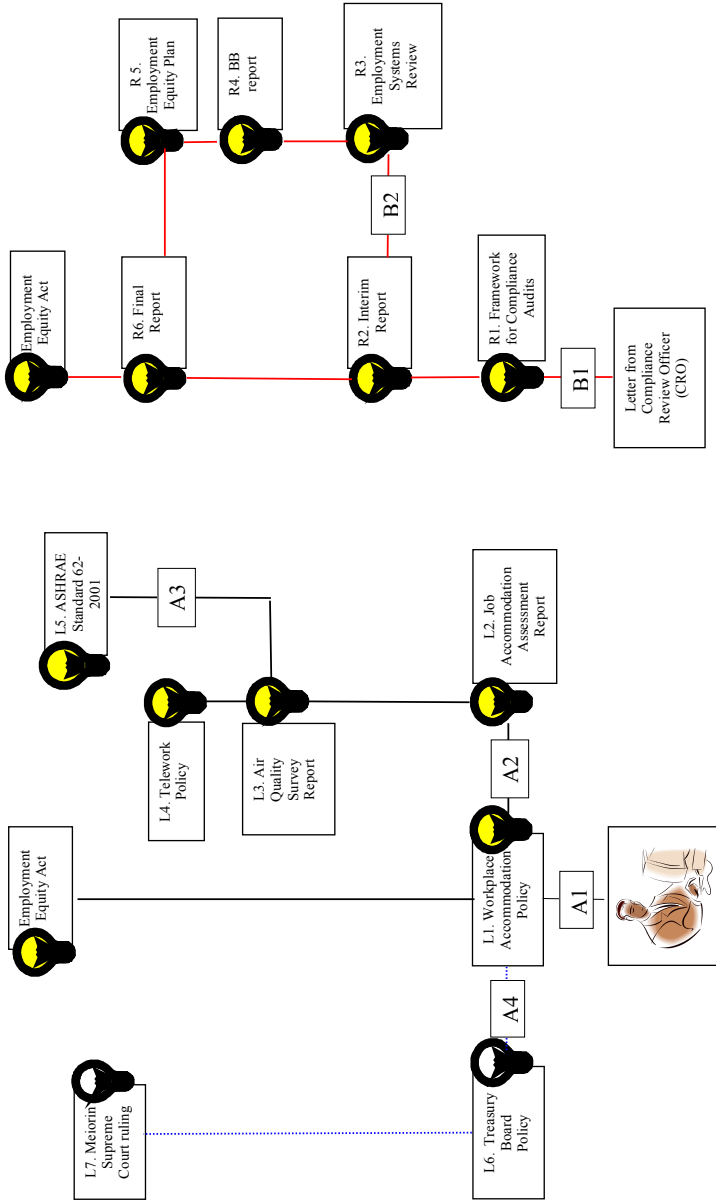
The work of acquiring the AR, completing and signing it, getting it signed and returned by the manager with a corresponding travel authorization number (another text), phoning and booking the flight with a government-approved travel agency, and so on: these work processes mediated through texts involving the employee, his/her manager, and the ticket agent describe what I’ve been referring to as social relations. Social relations are work processes that people enter into, where one type of activity precipitates another, which, when it is completed, accomplishes the intention of the previous activity. Social relations also allow the detection of what is known as recursivity (G.W. Smith 1990).

The process of filling out the AR, the per diem rates, and the government-approved travel agency are explained in sections 1.8, 3.2.9, and 1.6, respectively, of the Travel Directive, the policy document governing travel in the federal public service. The specific amount Matt is allowed to claim for meals, for example, while travelling in Canada is found nested within sub-subsection 3.2.9 of the Travel Directive, which is, in turn, nested within subsection 3.3, and which again is nested within Part III. This “nesting” is what I referred to as recursivity. Regardless of whether it is Matt, me, or any of the other hundreds of federal public servants travelling on government business every year, recursion is discoverable from the *sameness* in the multitude of work processes involved in the enactment of the Travel Directive. That is, each of us is required to complete a copy of the same AR form, dial the same 1-800-514-3798 number to book our flight, and claim the same amount for every breakfast consumed while travelling. The iteration of these social relations by different people in different places and at different times comprises an example of a textually mediated generalized course of action.

The recursive ontology of Matt’s textually mediated experiences with the Travel Directive at the local level also makes it possible to explain how the Travel Directive works as a generalized practice, that is, the converse of what I explained in the above paragraph. “Recursion,” writes Hofstadter (1979:148), “is based on the ‘same’ thing happening on different levels at once.” In other words, even though the Travel Directive is more generic than Matt’s concrete AR, both have what George Smith (1990:636) calls the same *social form*. Not only does this allow for a top-down description (i.e., from the generalized Travel Directive to Matt’s localized experiences) of how things work, but it also provides for a bottom-up (i.e., from Matt’s localized experiences to the generalized



Figure 1. Accommodation and Compliance Circuit Board



Travel Directive) analysis as well. This has important implications for my research. My goal is to explicate how the generalized and generalizing practices of workplace accommodation and compliance affect Matt's work life in a local setting, and also to illuminate how Matt's experiences with accommodation and compliance "operate as a copy" of how these conceptual practices of power are socially organized across the Canadian federal public service as a whole.

To map Matt's pathway through the social relations of accommodation and compliance at the RC, I will refer to an analogy of a circuit board depicted as Figure 1 above. The circuits represent various work processes and procedures and the lights represent texts that are simultaneously activated by, and rule, the work processes to which they are connected. By tracing the connections on the circuit board, we are able to see how boss texts were affecting Matt, without him necessarily being aware of them.

In the next session, we proceed through Matt's activation of his workplace accommodation policy as he experienced it, analysing the generalizing and generalized work processes that were occurring at both the local and extra-local level in which his experience was embedded.

### **BOSS TEXT: THE EMPLOYMENT EQUITY ACT (EEA)**

In tracking Matt's progress through his workplace accommodation process, I will demonstrate how Matt's activation of a local text hooked him into higher order, or boss, texts which "somehow" transformed his problem with air quality into a biological deficiency and freed his department from having to develop a more inclusive workplace.

As previously discussed, for the first part of Matt's tenure with the RC, he experienced his worksite as barrier free. During this time, Matt was not even aware that he was "environmentally sensitive." After his building was renovated, Matt was unable to work there, but was allowed to work from home, a practice known as telework. However, after two years, he started feeling isolated and out of touch with the everyday goings on at the office (cf. Albrecht 1992:47). So, Matt contacted the Canadian Company on Job Accommodation (CCJA), a company contracted to oversee the implementation of his department's workplace accommodation policy. By activating this policy (L1, circuit A1), Matt was hooked into the relations of ruling, organizing, and regulating accommodation and disability within the RC.

The EEA, represented by a dimly glowing light at the top of circuit A1 on my circuit board, is an example of a translocal "boss" text

that covers, in this instance, the majority of departments and agencies in the Canadian federal public service. The EEA requires employers to make reasonable accommodation to ensure that persons with disabilities achieve a degree of representation in an employer's workforce that reflects their availability in Canada's workforce. The focus is on individualized accommodations that will help the employer meet specific numerical targets. It is not, as I will demonstrate later, on external factors like ensuring that air quality standards meet the needs of all types of workers. This differs from how accommodation was understood post-Meiorin and how it was inscribed in the TB Policy. How the EEA became the boss text to RC's own workplace accommodation policy throughout the workplace accommodation process will become clear later in this paper. For now, I want to return to mapping out on my circuit board the social relations of the disability apparatus that Matt was hooked into at the local level when he activated his department's workplace accommodation policy.

#### **SOCIAL RELATIONS OF DISABILITY AT THE RC: A BIOLOGICAL DEFICIENCY**

The initial contact was made by phone, after which Matt received an email stating that the process would officially commence only after he had informed his manager (supervisor) and signed a "Consent to Release Information" (not shown on my circuit board) form. According to section 2.17 of the Workplace Accommodation Policy, individual managers at the local level "are accountable and responsible for the implementation of workplace accommodation solutions." Matt was consenting to allow the CCJA to conduct a workplace assessment so that it could "determine the barriers and difficulties that 'you' experience in performing your work tasks, and to have the evaluator make recommendations to alleviate these difficulties."

The wording of this is important since already it located the problem within Matt himself. A text produced in the spirit of the Meiorin decision as reflected in the TB policy might have been worded as follows: "determine what barriers exist in workplace systems, processes, and physical facilities that make it difficult for you to perform your work tasks, and to have the evaluator make recommendations to alleviate them." By signing this text, Matt was supporting the institution's epistemological stance that disability is an individualized problem to remedy.

The occupational therapist (OT) who was hired to perform the assessment met with Matt for a couple of hours and after he had finished

answering some of her questions, she went away to prepare a report using as template the Job Accommodation Assessment Report (JAAR), (L2, circuit A2). An examination of the report produced by the OT using this form reveals the origin of some of the formal connectives that hooked Matt into an individualized interpretation of disability.

The OT and Matt discussed Matt's needs for the provision of a workstation where he would have access to fresh air. This information was then encoded and written to reflect the interpretative schema of the JAAR, which assumes normality as the standard for comparison. The use of this template as interpretive schema transliterated the inadequate building standards which caused Matt's environmental sensitivity into a biological deficiency.

Framed in the traditional textually mediated discourse of disability which locates the problem of disability in the individual, the report produced by the occupational therapist had inscribed in it such formal connectives as "illness" and "symptoms." For example, the OT wrote:

Matt's environmental *illness* became evident during renovations and eventual demolition of the old building; Matt experiences the following *symptoms* after 1 hour at the new [worksite] premises:... (emphasis mine)

By using such words as illness and symptoms, the OT was hooking Matt into the manner in which disability is expressed in his department's workplace accommodation policy and in the EEA. This inscription, as it is oftentimes referred to in IE, is not done with any malicious intent and is not attributable to the job accommodation service provider's incompetence, negative attitudes, or poor policy administration. It is a routine practice used in the relations of ruling and represents how professionals like this OT have been taught to view disability in their training (Albrecht 1992; Safilios-Rothschild 1970).

What I am trying to say here is that Matt's barriers to inclusion were formally inscribed as a personal problem. It was this understanding of disability and accommodation that allowed the RC to avoid making the necessary changes to Matt's building to improve air quality.

The report produced by the OT noted the problem with air quality: "While he used to work out of an office where he had year-round access to fresh air through [*sic*], he found himself unable to do so in his newly assigned work station." The report recommended that Matt needed "to be accommodated in a location within the office building that allows him to open a window or possibly within a room that has demonstrated air exchange provisions." Matt was asked to choose one of the five options presented in the report. They are listed as follows:

1. Quiet room — air quality can be controlled by opening a window.
2. Small meeting room located on second floor.
3. Former receptionist's office next to a larger conference room.
4. Large conference room.
5. Current workstation area to be isolated with solid wall partitions, windows which open, separate thermostat, and independent air control system.

Even though options 2, 4, and 5 were listed as possible solutions in the OT's report, management asked Matt to select from options 1 and 3. Similarly, in her research on the accommodation of disabled students at the University of Victoria, Karen Jung (2003) discovered that only those accommodations perceived not to cause undue hardship to the university are made available to students.

Air quality tests were ordered by management as recommended in the OT's report. After receiving a report from the air quality expert (L3, circuit A2), the manager at Matt's workplace called a meeting to discuss the implications of this text.

Prefaced with a sentence in the opening paragraph that, "Two rooms were being investigated as an office for a sensitive individual," the discussion focused around Matt's "illness." Matt told me that one of the station manager's opening remarks was: "Is there anything we could do to help you figure out what exactly is the matter with you?" This statement clearly revealed the RC's stance that the problem was located within Matt.

Matt believed that the reason he was experiencing headaches and dizziness was due to a lack of oxygen in the air he was breathing. Oxygen levels are not something that can be measured in any given building. Scientists measure the level of carbon dioxide instead. Extreme levels of carbon dioxide are an indicator that there is insufficient air exchange in a building, suggesting a lack of oxygen.

A Qtrak Indoor Air Quality Monitor was used to detect the level of carbon dioxide in two of the rooms suggested in the OT's report. These were the rooms in options 1 and 3. According to sociologists Bruno Latour and Steve Woolgar (1979:51), a piece of equipment such as this Qtrak Indoor Air Quality Monitor is called an inscription device. An inscription device takes a material substance (in this case carbon dioxide) and produces a graph or a chart which can then be used by someone as a means to an end (Latour and Woolgar 1979). The graph showed that carbon dioxide emissions were below 800 ppm which, according to air quality standards, is the maximum allowable quantity for this gas in air that people breathe.

In short, with the help of an inscription device, the air quality expert indicated that the results of the air quality tests proved that everything in the building was as it should be. These results were sufficient to exonerate the building and confirmation to the ruling apparatus and to a disabled person schooled in the ruling apparatus' epistemology, that the problem s/he was experiencing was located in herself/himself. Undoubtedly then, Matt was the deviant one, not the building.

If Matt had any further doubts about the possibility of the building being at fault, I saw an email he had received in February 2005 from an engineer who works for the RC confirming that the building had been constructed to meet the highest standards: "The design of this facility has been done to all current codes and regulations, National Building Code, ASHRAE recommendations, etc."

In the end, Matt chose the only option which had an operable window — option 1. The problem with this option was that it was adjacent to the loading dock and also where smokers came to smoke.

#### **BOSS TEXTS: BUILDING STANDARDS AND AIR QUALITY**

I would like to return to my circuit board at this point. The inscription of air quality into a text that could be compared with government standards for air quality and the email from the engineer caused a host of lights representing boss texts to be lighted across the board, including ASHRAE Standard 62-2001 (L5, circuit A3), none of which Matt would have had any reason to consider. Long before receiving a copy of the air quality report, Matt had dug up journal articles, reference manuals, spoken to air quality experts, and with other people with environmental sensitivity. This exemplifies the "work" people with disabilities often cannot escape to figure out how they can fit into an environment designed for people who are not disabled (Deveau 2007). What he discovered is summarized below.

Most buildings in North America use mechanical ventilation rather than natural ventilation to avoid extreme temperature fluctuation and keep outdoor air pollution from coming into the building. The American Society of Heating, Refrigeration and Air-Conditioning Engineers' (ASHRAE) Standard 62-2001, which was used in the design of Matt's building, defines acceptable air quality as the air "with which a substantial majority (80% or more) of the people exposed do not express dissatisfaction." This suggests that the building is not intended for at least two out of every ten persons. More importantly, the research to establish this acceptable air quality standard is typically done with healthy young

adult males as subjects (Sine, Rotor, and Hare 2003:3), who do not represent the diversity of people in Canadian society. Finally, indoor air is composed of “hundreds, even thousands” of different compounds occurring at low concentrations, and the synergistic effects of these is largely unknown. Yet, the five or six measurements, acquired through the use of various inscription devices to detect specific compounds, combined with the limited scope of the ASHRAE standard 62–2001, were all that was needed to create the socially constructed benchmark used to establish the difference between a “normal” person and a “deviant” like Matt.

When Matt presented his findings to his manager, he was shunned. How could Matt even suggest that the texts developed by the country’s top engineers were mistaken? The text from which the ASHRAE standards originated had the status of an uncontested speaker which “trumped” any version of Matt’s embodied experience (Campbell and Gregor 2002:40).

Matt tried working in the quiet room (option 1) but found this to be impractical because as soon as he left his office to meet with colleagues, use the photocopier, or use the washroom, he walked into sections of the building where the air quality standards did not meet his needs. Also, the air that was sucked into his office whenever the window was left open was polluted with car exhausts and cigarette smoke. Much to his disappointment, Matt ended up once more working from home, something he was allowed to do by virtue of his department’s telework policy (L4, circuit A2).

Teleworking from home thus became Matt’s accommodation. This outcome is not in keeping with the Meiorin SCC ruling as inscribed in the TB Policy. Even though a connection exists between that policy and the RC’s Workplace Accommodation Policy, through circuit A4, it was never activated either by Matt or the RC. Had a real connection existed, the RC would in all likelihood have been required to modify its air quality standards to meet the needs of all types of workers, including people like Matt.

The primary light on top of circuit A1 is the EEA, a generalizing document which contains nothing on air quality standards. Assessment factor 5.1 of the Framework for Compliance Audits (described below) requires that accommodations be done case by case so that in practice, a separate course of action, which I have represented as A2 circuit, is required for each instance a person like Matt activates his/her department’s Workplace Accommodation Policy. Circuit A2 is a graphical representation of the social form in which accommodation is enacted. Note that the Workplace Accommodation Policy and the OT’s assessment are an integral part of the social form of this type of accommodation. Both have the

same recursive relation to it, in terms of advocating for individual fixes/cures. Each is an iteration of the language of accommodation nested in the EEA. This differs from the social configuration of accommodation legislated in the Meiorin case and embedded in the TB Policy.

### **RC: BARRIER FREE**

So far, I have explicated what happens on the left hand side of my circuit board. I now turn to the right hand side. This side represents the social relations that allowed the department to be found barrier free in July 2004.

While it may seem obvious that the process carried out to assess the department's barrier free status should have been interconnected with the workplace accommodation social relations in which Matt was embedded, there is no connection, as depicted in Figure 1 above, between these two work processes.

A plausible explanation of how the department was found to be barrier free was not visible in Matt's local setting. I had to look at how disability was organized translocally in order to understand how this was happening. The next part of my analysis focuses on how, after a three-year process that overlapped with Matt's attempts to address air quality in his building, the department was found to be barrier free despite Matt not being able to work there. What I will illustrate below is that there were critical disconnects on the board which resulted in numerous policies, legislations, and processes failing Matt.

### **AUDIT-BASED COMPLIANCE EVALUATION**

In 2000, the Deputy Minister of Matt's department received a letter from the CHRC indicating that the department would be audited for *compliance* with the EEA. This letter precipitated the social relations on the right hand side of my circuit board, represented as circuit B1. The audit would be done by John Smith, a Compliance Review Officer (CRO) from the CHRC.

One of the first steps required of the department to prepare itself for audit was to invite its employees to complete a self-identification questionnaire using definitions for each of the designated group members as specified in the EEA. A comparison of the results of this survey with workforce availability estimates of members of the designated groups informs the department of any gaps in representation. If gaps are found, the department/agency is required to do an Employment Systems Review (ESR) to identify the barriers that may be contributing to those gaps.



The department/agency then must develop an Employment Equity Plan (EEP) outlining how it proposes to close those gaps. The EEP must include positive policies and programs which, when implemented, will foster the recruitment and retention of members of the four designated groups and close any representation gaps.

Of interest to us in this section of the paper is how the CRO came to the conclusion that Matt's department was barrier free, given Matt's inability to work in his office building because of inadequate air quality standards. To understand this, we need to follow the steps and procedures used by the CRO in arriving at that conclusion. To be in compliance with the EEA, a department has to be able to manifest this status. The CRO compares the texts used by departmental staff to make the department audit-ready against, at the time, 12 statutory requirements outlined in the CHRC's Framework for Compliance Audits (R1, circuit B1). This is a standardized process used by the CHRC in auditing all departments and agencies across the country. In IE terms, we say that the CRO is following a *mandated course of action* (Smith 1990b) for which the ultimate goal is a report illustrating in which areas the department is compliant and where it might fall short. This report represents in material form the textually mediated processes which make employment equity part of the social organization of the department. For now, I want to unpack what the CRO does in assessing how well the department met two of its 12 statutory requirements: 1) the Employment Systems Review and 2) the Employment Equity Plan.

In April 2001, the CRO provided the department with his interim report (R2, circuit B1). His final report was not issued until July 2004. Through a process known as textual analysis, these two texts provided the first clues in understanding how the auditor's mandated course of action to evaluate the department for compliance was linked to the RC's failure in meeting Matt's needs. Textual analysis does not mean looking and taking at face value the information the CRO's reports contained. It means viewing (in this instance) the CRO's reports as a recorded instance of the social organization of the department's enactment of the Employment Equity Act as interpreted by the CRO who is said to be "performing" the commission.

In his preliminary report, the CRO noted that the department had completed an ESR and found no systemic barriers. However, after speaking with members of the four designated groups, the CRO came to the opposite conclusion. As a result, the CRO ordered that another ESR be undertaken (R3, circuit B2). A company I shall name Barrier Busters (BB) was hired to do the follow-up ESR.

This company interviewed an unknown number of members of the four designated groups. To uncover “all employment barriers,” the BB consultant used a predefined set of questions in the following seven categories: 1) “Usual perceived barriers,” 2) “Recruitment and staffing,” 3) “Selection process,” 4) “Training and development,” 5) “Upward mobility,” 6) “Working conditions,” and 7) “Conditions of Employment.” In its report, released in July 2003, BB identified 59 barriers (R4, circuit B2). Whether this list represents a complete description of all the barriers that exist for persons with disabilities at the RC is not the point.

The point is that this list was developed within the context of a mandated course of action authorized by the CHRC. Air quality was not listed as a barrier. Matt, however, was not mandated to assess the merits of the BB report; the CRO was the only person authorized to do so. In other words, the CRO is the only person allowed to be “performing” the CHRC (G.W. Smith 1988).

The CRO wrote in his final report (R6, circuit B1) that he was satisfied with the ESR completed by BB. Although the auditor had questioned the legitimacy of the first ESR because it had not contained any barriers, the legitimacy of the BB report was not questioned even though it did not contain an analysis of the air quality standards used in the renovation of Matt’s building. The CRO did not have to. According to the Framework for Compliance Audit (R1, circuit B1), the CRO is simply mandated to examine the work processes undertaken by the consultant in uncovering barriers and be satisfied that the department’s approach in addressing those same barriers in its EEP (R5, circuit B2) will enable reasonable progress towards their elimination.

How was it that air quality was not listed as a barrier in BB’s report, among the other 59 barriers listed? Quite simply, no one had asked Matt if he needed access to an operable window or if the air quality in his building had been a problem. If consultants working for BB, or if the auditor himself, had checked with Matt in MattCity and the information had been retrieved through such authorized channels, air quality might well have been recorded as a barrier. But that’s not what happened. The final report sent by the CHRC to the Deputy Minister in CapitalCity indicated that compliance had been met.

This is how a textually mediated ruling relation works: Matt’s workplace located 1000 kilometers from CapitalCity was deemed barrier free, even though the CRO never set foot in Matt’s building. What this means is that, by virtue of the CRO’s generalizing and generalized practices of assessing the merits of the department’s Employment Equity Plan, the material conditions described earlier — that is, the inadequate air quality standards used in the construction of the building, which from Matt’s

standpoint, as well as the Meiorin SCC ruling, constitute systemic barriers — were irrelevant. The fact that air quality was transliterated into Matt's individualized problem, within the social relations of the department's accommodation policy and audit-based evaluation process for compliance, received no challenge.

Matt is not alone in this. Despite Michel Lefebvre's personal communication that all departments/agencies have been found in compliance since 1997, disabled workers are still struggling with their accommodation. In fact, only one of the 38 disabled workers I interviewed for my doctorate indicated to me that she was satisfied with her workplace accommodation. She has since then had to leave her employment because her individualized accommodation was revoked under new management. Another man working in a different department also had to quit his job when his individualized accommodation was revoked after his former supervisor retired. In their 2010 review of the Employment Equity Act, staff from the Public Service Alliance of Canada criticized the commission for not taking into consideration the number of complaints coming from employees in a given department/agency before a barrier free designation is conferred upon it.

This paper describes one instance of how government departments and agencies are assessed by the commission for compliance. Since the recursive ontology of the audit-based evaluation process makes it possible for me not only to move from the generalized to the specific but also its converse, I am confident in using the findings of this particular investigation to legitimately claim how compliance in the federal public service as a whole is organized. As a course of action mediated through texts, compliance is a *discursive object*. A discursive object, as defined by George Smith (1988:182, n. 8) is a "thing which exists only on paper and which is brought into being using documentary procedures for classifying the practices and activities of people."

## CONCLUSION

From a sociological perspective, this was a study of the social organization of employment equity in a Government of Canada department. The EEA was conceived to correct the conditions of disadvantage experienced by members of the four designated groups. Instead of theorizing on *why* employment equity did not work for Matt, which would have been the standard sociological approach, I used an alternative sociology to look at *how* things happened the way they did. Using institutional ethnography, I was able to show how texts like the JARR, normally per-

ceived to be as benign as a birthday card, transform the experiential way of knowing disability into the ideological way of knowing it. This has important implications for both sociology and disability rights politics, for it shows that texts are an important dimension of these discriminatory relations of ruling and that any transformation of the workplace to make it more inclusive will fail until the right texts are brought into play.

This IE has shown that by authorizing Matt to work from home, the RC appropriately discharged its responsibilities under the duty to accommodate. However, looking at this from Matt's standpoint, the department's workplace accommodation policy failed him because he was excluded from the place he had worked for more than a decade. The fact that Matt's department was deemed barrier free by the CHRC has effectively negated the possibility of any further accommodations for Matt.

This textual analysis of how government departments and agencies are found to be in compliance has shown that the transformation process of the workplace that was promised by Meiorin in 1999 is being undermined by the very thing that was put in place to ensure the abolition of systemic discrimination — the audit-based evaluation process conducted by the CHRC. In our overzealousness in believing that the cause of our concerns could be laid at the hands of supervisors and managers, disabled activists, not unlike gay rights activists (G.W. Smith, 1988), have never thought to look at how the EEA (law) "provides for and organizes this kind of treatment."

The number one factor which influences how disability is socially organized in the Canadian federal public service is the EEA. Therefore, providing managers and supervisors with more training on disability issues and accommodation will not solve the problem of disabling physical and social barriers that we encounter every day. What is needed, instead, are sweeping changes to both the EEA and the audit-based assessment process for compliance with it.

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