

Nannies unite!

Questioning the fairness of immigration and tax rules

BY SANDRA SPEROUNES

Ottawa is unfair to foreign nannies. That's what the majority of Alberta's domestic workers say as the federal government makes their work and life in Canada difficult.

Job guidelines and taxation laws are strict. In some cases, medical rules are forcing nannies to abandon hope of becoming a Canadian citizen and some face deportation.

Until now, domestic workers have quietly respected the rules. But the recent case of one Filipino nanny, Celia Felipe, is changing that unquestioning compliance. Nannies are beginning to challenge the government on their own and in groups. Earlier this month, the three groups representing Alberta's domestic workers decided to unite to lobby for changes to the rules governing their lives.

The groups — Alberta Domestic Workers Association, Household Workers Association of Alberta and the International Homemakers Association of Alberta — represent about 1,000 nannies in the province. But that's only a fraction of the number. An official with the department of citizenship and immigration says approximately 5,000 domestic workers enter Alberta every year, many of them trying to immigrate to Canada. Ninety-five percent of those workers are from the Philippines.

These women don't enter the country haphazardly. A potential nanny must apply under the federal Live-in Caregiver Program (formerly known as the Foreign Domestic Program). To be accepted, she must have six months of formal training, have a good knowledge of one official language, and pass medical and security checks.

Once she's made it to Canada, she must complete two years of work in 36 months in order to apply for landed immigrant status. She must live with the family she works for. She can't leave the country for more than six months. She needs permission to take certain educational courses. And she can't take a second job. Even babysit-

ting another family's children can land a nanny in trouble, says Immigration official Treasure Ducharme-Carlson.

But under-the-table work is often tempting, say some nannies, because they don't make a lot at their first job to begin with. They say they earn about \$600 a month — dollars that are usually sent back home to their families.

After a nanny has completed her work requirements, she can then apply to become a landed immigrant. As a part of this process, she must go through more medical and security checks. So must her children and husband back home. If she fails, she must leave the country. If she passes — but a member of her family fails — she also must leave.

These check-ups have angered many of Alberta's domestic workers, and some have challenged the guidelines in court. Celia Felipe is one such example. After working two years as a nanny, she applied for landed immigrant status. She was rejected because she failed her medical test. At one time she had cancer. Her doctor now says she's in remission. But the government's diagnosis is: deportation.

Sherish Chotalia is Felipe's lawyer. Chotalia says nannies should only be subjected to one medical exam.

"It's our position that (Felipe) should not have had to go for any further medicals to begin with — aside from the fact that her doctor says she's in complete remission and has been since a couple years ago."

Chotalia also says Ottawa should be more flexible with the rules when it comes to nannies.

"I've already had a number of decisions out of the Federal Court which confirm that the domestic workers under the Live-In Caregiver Program are not ordinary immigrants. They've already served for 24 months minimum and are in a special category where the court has said they have to be treated in a flexible and a constructive manner."

Chotalia will be in Federal Court on March 11 to make Felipe's case. But her involvement with domestic workers doesn't stop there. The human rights lawyer is also launching a legal challenge for another Filipino woman.

In this case, the woman also applied for landed immigrant status and was denied. She passed her medical test, but two of her children in Manila did not. Chotalia says this regulation is not fair because the woman has no intention of bringing her children to Canada.

"A live-in caregiver or domestic worker should be able to choose whether she wants to come to Canada alone and live without her dependents or with them," says Chotalia. "And if she chooses not to bring them at this time, there's no reason I can see why her dependents in the other country should have to be processed for medical and criminal checks. It's simply illogical."

Chotalia also says the Immigration Act does make allowances for children or family members who fail their medicals.

"Let's say she does want to bring these children and dependents and if some of them turn out to be medically inadmissible, there is first of all a discretion with immigration officials on humanitarian and compassionate basis to allow the entry of the inadmissible children."

Chotalia says denying these children entry into Canada is a violation of the Canadian Charter of Rights and Freedoms on the basis of physical disability. "(This medical requirement) prevents the admission of a person — a dependent in this case, a child — of a person simply because of physical disability."

She says there are probably many domestic workers who are being denied landed immigrant status because of the health of their children. But she says it's impossible to determine the number. (Ducharme-Carlson of the immigration department says about three percent of nannies are denied status).

"The problems with domestic workers is that a lot of them simply, when they get the letter (denying them landed immigrant status), just leave," says Chotalia. "The letter will specifically very often say 'you have no right of appeal from this decision' so they believe there's nothing they can do in the courts. However, there may not be any statutory right of appeal but there's always judicial review."

"That means every decision made by any government official is subject to review to make sure it's been made fairly and in accordance with the rules of natural justice. And secondly, there is always the Charter of Rights and freedoms that ensures that legislation is not discriminatory and that discretion should not be exercised in a discriminatory fashion."

The groups representing Alberta's nannies also believe the federal government must be less discriminatory and more compassionate in dealing with these cases. The president of the Household Workers Association of Alberta says nannies give a lot to this country and should get something back.

"This poor nanny is working hard here in Canada and she's rendering excellent services," says Regina Suravilla. "She's paying taxes, she's paying everything."

Suravilla says the three groups of domestic workers are beginning to lobby the government to change the medical requirements. The three groups held their first joint information session earlier this month and are planning to write letters to any politician who will listen.

But Suravilla says medicals are just the tip of the iceberg. She says there are a number of other federal guidelines the three groups take issue with.

Training certificates is another issue. Before April 1992, a nanny wasn't required to get six months of formal training to be eligible for the Live-in Caregiver program. Since that requirement was instituted, domestic workers say a black market for fake training certificates has grown in the Phil-

ippines. Instead of taking the course, some women are now buying bogus certificates for almost \$1,000.

Alberta's nannies want this training requirement nixed. An Immigration official says Ottawa is already looking at the suggestion. Treasure Ducharme-Carlson says the previous federal government knew about the black market problem. She says the government was thinking about changing the requirement to one year of on-the-job experience. Ducharme-Carlson says the new federal government is planning to study this proposal soon.

Another issue relates to taxes. When filing a tax return, a nanny can no longer claim children living outside the country. But an official with Revenue Canada says domestic workers can claim the money they send back to their families. "That's providing that your husband doesn't have enough money to live on for a reasonable standard there," says Christine Nelson.

Nannies say they must pay income tax to both the Canadian government and the Filipino government, a difficult burden for people who make only a few hundred dollars a month. Nelson says the nannies shouldn't have to pay taxes twice. She says domestic workers can claim the taxes they pay abroad when they file their Canadian tax return.

The groups representing domestic workers have already received local support. Immigration's Ducharme-Carlson and lawyer Sherish Chotalia are both encouraging nannies to speak up about these and any other issues they find unfair.

"Go to your politician," says Chotalia. "We have a change in government now and I think it's incumbent on these groups to get together and understand what the law says or what it appears to say...and write to the minister and get support."

Regina Suravilla of the Household Workers Association of Alberta promises the three groups will do that. "We want to show to them we are united and fighting for one goal."