

OFFICE OF THE COMMISSIONER  
OF OFFICIAL LANGUAGES  
FOR NEW BRUNSWICK



COMMISSARIAT AUX  
LANGUES OFFICIELLES DU  
NOUVEAU-BRUNSWICK

**JUNE 2015**

**INVESTIGATION REPORT**

**FILE NO.: 2015-2367**

**ALCOOL NB LIQUOR (ANBL)**

**SENT TO THE:      PREMIER  
                              PRESIDENT AND CHIEF EXECUTIVE OFFICER, ANBL  
                              CLERK OF THE EXECUTIVE COUNCIL  
                              COMPLAINANT**

**IN THE MATTER OF *THE OFFICIAL LANGUAGES ACT*  
OF NEW BRUNSWICK, R.S.N.B. 2002, CHAPTER O-0.5**

**Subject: Complaint under the *Official Languages Act*  
Alcool NB Liquor (ANBL)  
Alleged deficiencies in the provision of services in French**

**Investigation Report  
File No.: 2015-2367**

**1. Complaint**

The complaint as detailed below was filed at our office on May 5, 2015:

On May 5, 2015, around 3:05 p.m., the complainant went to the ANBL outlet located on Vaughan Harvey Boulevard in Moncton.

As the complainant was going through the aisles, a clerk approached the complainant and greeted the complainant with "Hello, bonjour." The complainant then addressed the clerk in French, and he responded in English. When the complainant explained the reason for active offer to the clerk, he replied "I don't speak French." The complainant proceeded to tell him that he should have enlisted the help of a colleague able to communicate in French. The complainant then told the clerk, however, that she would not be filing a complaint about the matter and that he was lucky. As the complainant was walking away, the clerk remarked to the complainant, "I could have answered in Italian, but I don't think you would have liked that."

The remark, said in an insolent tone, prompted the complainant to speak to Bruce, the manager of the outlet. When the complainant informed the manager of the intent to file an official languages complaint, he replied that the active offer of service is done through signs at the cash registers. In response to the complainant's remarks about the incident with the clerk, the manager said laconically that employees are required to provide active offer.

The complainant, despite noting significant improvements in the provision of service in both official languages at this particular outlet, did not appreciate the clerk's attitude or the manager's lack of consideration in this particular instance.

**2. Investigation**

On May 6, 2015, in accordance with the provisions of subsection 43(13) of the *Official Languages Act* of New Brunswick ("OLA"), a letter in lieu of a notice of investigation was sent to the institution concerned, Alcool NB Liquor (hereinafter "ANBL"), to bring this complaint to its attention. In the letter, we asked the institution the following questions:

1. What is the linguistic profile of the employees at the outlet at issue in the complaint?
2. What was the actual linguistic make-up of the team when the complainant was at the outlet?
3. Was the employee mentioned in the complaint clearly informed about the importance of providing active offer and of serving customers in the official language of their choice?
4. What steps are taken by the outlet to ensure that its employees continue to provide service in the customers' preferred official language?

We received ANBL's reply on May 21, 2015, in a letter dated May 19. The following is an excerpt from that letter:

ANBL was discouraged to receive this complaint whereby a customer was not offered service in French after the complainant indicated their preference by speaking the language of their choice. On the day and at the time in question, there were several French and/or bilingual employees at the outlet, including the other Assistant Manager. However, appropriate steps and follow-up will be taken with the employees concerned.

The outlet in question in fact exceeds the requirement with respect to its linguistic profile, since nine of the 14 employees are bilingual. At 3:05 p.m., the shift change would have been taking place, and all of the staff would have been present (with the exception of one staff member who was scheduled to be off). It is therefore unfortunate that the staff decided on their own to not follow ANBL's procedure for serving customers in the language of their choice.

Employees have just signed the "annual authorization" policy process, which includes ANBL's Official Languages Policy. As well, the active offer of service is discussed regularly at start-of-shift meetings to convey ANBL's expectations. The manager will be reviewing the issue more formally and will include this aspect in his "on-the-floor professional support" sessions.

ANBL is in the process of finalizing the linguistic profiles for 2015, which are monitored continuously. ANBL continues to take every concern seriously and is working to ensure quality service in both official languages.

[Translation]

On the basis of the information gathered, we are able to draw conclusions without the need to continue our investigation or invoke any additional powers such as those conferred on a commissioner under the *Inquiries Act*.

### **3. Analysis and observations**

The OLA includes the following provisions with respect to communication with the public:

- 27** Members of the public have the right to communicate with any institution and to receive its services in the official language of their choice.
- 28** An institution shall ensure that members of the public are able to communicate with and to receive its services in the official language of their choice.
- 28.1** An institution shall ensure that appropriate measures are taken to make it known to members of the public that its services are available in the official language of their choice.

It should be noted that the employee mentioned in the complaint did indeed engage in the active offer of service with the complainant by greeting in both languages with “Hello, bonjour,” thereby fulfilling the obligation stemming from section 28.1 above. The problem, however, is that the employee failed to continue providing service in the language chosen by the complainant, i.e., French. This leads us to believe that the active offer is done mechanically, and that the employee in question does not understand the rationale for it. Engaging in the active offer is one thing, but providing a service in the official language chosen by customers is another. The Assistant Manager’s disregard for the complainant’s concerns also says a lot about the lack of understanding of the obligations set out in the OLA.

In response to our question concerning the linguistic profile of the staff at the outlet at issue in the complaint, ANBL indicated that it has more bilingual staff than the established profile requires. Furthermore, the information provided by the institution shows that at the time of the incident reported by the complainant, all the staff, with the exception of one person, were in principle present at the outlet. Since more than half of the staff are bilingual, it should have been possible for the complainant to be served in the official language of her choice. It is unfortunate that the complainant’s choice was not respected.

There is more to the incident than just the fact that the employee in question did not take the necessary steps to ensure that the complainant was served in French. After committing this first breach, the employee made an insolent remark to the complainant. Such an attitude is deplorable and unacceptable.

### **4. Conclusion**

In the light of the foregoing, we find this complaint to be founded, as ANBL did not dispute the fact that the incident reported by the complainant took place as described to us.

To sum up, ANBL took the following measures following the complaint:

- Appropriate steps and follow-up with the employees concerned;
- Staff had just signed the “annual authorization” policy process, which includes ANBL’s Official Languages Policy;
- Active offer of service is discussed regularly at start-of-shift meetings to convey ANBL’s expectations;
- The manager will review the issue more formally and will include this aspect in his “on-the-floor professional support” sessions.

Since these measures are satisfactory to us, we do not feel the need to make any formal recommendations in this case.

In accordance with subsection 43(16) of the OLA, we respectfully submit this report to the Premier, the President and CEO of ANBL and the complainant. We also believe it is appropriate to forward this report to the Clerk of the Executive Council.

In the event that the complainant is not satisfied with our conclusions, the complainant can apply to the Court of Queen’s Bench of New Brunswick for a remedy under subsection 43(18) of the OLA.

[Original signed by]

Katherine d’Entremont, MPA  
Commissioner of Official Languages for New Brunswick

Dated at Fredericton,  
in the Province of New Brunswick  
this 9<sup>th</sup> day of June 2015