

Jury Awards Former Tunnel Worker \$735,000 in Discrimination Case

By JOHN ELIGON

A federal jury has awarded more than \$700,000 to a former Queens-Midtown Tunnel employee, who said his bosses denied him a promotion and penalized him for taking sick days because he was Jewish, according to lawyers for the employee.

The jury, in United States District Court in Manhattan, decided on Monday that the former employee, Gregory Fishman, should get \$235,000 for emotional pain and \$500,000 in punitive damages. Mr. Fishman, 45, is also seeking more than \$1 million in lost pay, but whether he receives anything will be up to the judge in the case, Lawrence M. McKenna, to decide.

A lawyer for the defendants in the five-day trial, M.T.A. Bridges and Tunnels (also known as the Triborough Bridge and Tunnel Authority) and Peter Senesi, the general manager of the Queens-

Midtown Tunnel, did not return telephone calls on Tuesday seeking comment. It was unclear whether an appeal was planned.

A spokeswoman for M.T.A. Bridges and Tunnels, Joyce Mulvaney, however, said, "The jury returned a verdict in an amount under review by the trial court judge, and because the entire matter is under active consideration by the trial court, we can have no comment."

In a complaint filed in December 2006, Mr. Fishman argued that after a meeting with Mr. Senesi and another official to discuss his attendance record, he overheard Mr. Senesi using an expletive before calling him a Jew. Mr. Senesi denied the contention on the witness stand, Mr. Fishman's lawyers said.

That allegation is the underlying basis for Mr. Fishman's claim of religious discrimination, said Thomas Ricotta, a lawyer who,

along with Matthew Porges, represented Mr. Fishman.

"Actions were taken against my client that were taken differently for other people who weren't Jewish," Mr. Ricotta said

A man says he was denied a promotion and was penalized because he is Jewish.

in an interview on Tuesday.

According to Mr. Fishman's lawsuit, Mr. Senesi used an expletive in describing Mr. Fishman in September 2004, at the end of a meeting during which he questioned Mr. Fishman about several absences from work. The meeting was held, the complaint

said, even though Mr. Fishman had presented several doctors' notes to a supervisor indicating the reasons for his absence.

A month later, Mr. Fishman, who began working at the tunnel in December 1991, took an exam for a promotion to Permanent Level II Maintainer, according to the lawsuit, and he earned the third highest score. But Mr. Senesi passed him over for a promotion, while he promoted people who had scored much lower than he had on the test, the complaint said. The man ranked 38th on the test was among those who received a promotion, the complaint said. Fourteen Queens-Midtown Tunnel employees were eligible for promotion after the exam, the complaint said, and the only two who did not receive one were Mr. Fishman and another Jewish man.

In February 2005, Mr. Fishman filed a complaint with the author-

ity's equal employment opportunity officer. In March of that year, Mr. Fishman was demoted and his salary was decreased by \$8,000 a year, the complaint said.

Less than a year later, Mr. Fishman asked for time off because he needed knee surgery, the complaint said. The authority denied him the time off, according to the complaint, even though a doctor for the agency had examined him and had determined that he was not fit for work because of his knee.

Mr. Fishman left his job as a provisional bridge and tunnel maintainer in 2006 because of the alleged harassment, Mr. Ricotta said, and now lives in Keller, Tex. Mr. Fishman, who did not return a telephone call seeking comment, has not been able to find a steady job, Mr. Ricotta said.

"He lost a 15-year career with the M.T.A.," Mr. Ricotta said. "It's a shame."