

HRLSC Cases

Note: Many cases are resolved before a hearing takes place at the Human Rights Tribunal of Ontario and the Centre is able to secure significant public interest remedies at the mediation stage.

Hearings in the area of employment

Gender

Kohli v. International Clothiers, 2012 HRTO 153 (CanLII) <http://canlii.ca/t/fpqvg>

Ms. Kohli had twice been passed over for promotion to Assistant Manager positions because she was a woman. The Tribunal accepted that Ms. Kohli had been told by her store manager that she was not suitable for an Assistant Manager position because she was a woman and that when she challenged these decisions, she was subject to reprisal. Further, the Tribunal found the company made no real effort to investigate the reprisal allegations.

The Tribunal ordered:

- \$12, 000 to the Applicant in damages for the loss of the right to be free from discrimination
- \$23, 586.59 in lost wages
- The Respondents to complete Ontario Human Rights Commission's on-line human rights training and provide copies of the certificates of completion to the Applicant
- The Respondents to retain an expert in human rights law to develop a comprehensive anti-discrimination policy including an internal complaints mechanism.

Gender, disability, association and reprisal

Knibbs v. Brant Artillery Gunners Club, 2011 HRTO 1032 (CanLII), <http://canlii.ca/t/flmtr>

Ms. Knibbs and Ms. Long were both fired from their jobs as bartenders at the Brant Artillery Gunners Club. While Ms. Knibbs was on a medical leave, she was demoted from full-time to

part-time status, had confidential medical information about her publicized, and was laid off. When she filed a human rights claim, she was accused of theft and reported to the police. Ms. Long had her hours reduced after she became pregnant and had a temporary disability.

The Tribunal found that “the cumulative effect of the Respondents’ discriminatory actions and the threat of reprisal effectively ended Ms. Knibb’s employment with the Club. The work environment and employment relationship were so poisoned by the Respondent’s actions that Ms. Knibbs could not have returned to her position.” The Tribunal also found that the Respondent’s letter to the police “was an act of reprisal against Ms. Knibbs.”

With respect to Ms. Long, the Tribunal found the employer did not give any consideration to accommodating her temporary disability. The Tribunal also found that the refusal to allow Ms. Long to work at night relied on stereotypes about pregnant women and was discriminatory.

The Tribunal ordered:

- \$20,000 and \$13,000 respectively to both Applicants for the loss of the right to be free from discrimination
- Compensation for their lost income, \$16,083.99 and \$6,084 respectively
- Compensation to Ms. Long for any lost EI maternity/parental benefits as a result of having fewer insurable hours
- The Club to retain a consultant with expertise in human rights to assist in drafting and implementing a policy on harassment and discrimination, including components on disability, pregnancy, reprisal, association, and the duty to accommodate
- The Club’s officers, committee chairpersons, managers, and supervisors to complete the Ontario Human Rights Commission’s online training module on human rights and provide copies of the certificates of completion to the Applicants.

Age

Tearne v. City of Windsor 2011 HRTO 2294 (CanLII) <http://canlii.ca/t/fpfg9>

The City of Windsor withdrew a conditional offer of employment as a part-time arena attendant after Mr. Tearne was unable to complete pre-employment testing related to heart testing.

The City argued that the job in question was a heavy one, and that valid, related and necessary pre-employment testing was discontinued after two attempts because of concern for Mr. Tearne's safety and well-being.

The Tribunal found that the expert evidence did not establish that an elevated risk for cardiac events exists when higher heart rates are reached while undertaking strength-related activities such as those included in the pre-employment testing. The Tribunal accepted the evidence of the Centre's medical expert that older adults can routinely engage in strength activities without associated incidents of fatality or cardiac events.

The Tribunal ordered:

- \$10, 000 to the Applicant for monetary compensation for loss of the right to be free from discrimination
- Lost wages (to be calculated)
- The Applicant to be placed in the job if he successfully completes the City's pre-employment testing.

Lauzon v. Ontario Provincial Police, 2011 HRTO 1404 (CanLII), <http://canlii.ca/t/fmhls>

Mr. Lauzon wanted to apply to become a police constable after he had been working as an auxiliary officer with the Ontario Provincial Police (OPP) for many years. As an initial step, he was required to go through a pre-interview assessment used by the OPP. He met the standards for each of the tests in the assessment except the vision test. Because he did not meet the standard for depth perception, he was not allowed to continue in the application process.

The Tribunal found "the Respondents have not met their onus of establishing that the existing measurement of depth perception is reasonably necessary to accomplish the goal of a police officer being able to do his/her work safely and that the Respondents cannot accommodate individual capabilities and differences without incurring undue hardship. As a result I find that the Applicant was discriminated against on the basis of disability."

The Tribunal ordered:

- \$8,000 to the Applicant for monetary compensation for loss of the right to be free from discrimination
- The Respondent (OPP) to issue a Certificate of Results to the Applicant effective the date of the decision
- The Respondent (OPP) to cease relying on the standard of “stereo acuity of 80 seconds of arc or better” as a vision requirement in the Constable Selection System.

Ancestry

Couchie v. Ontario (Municipal Affairs and Housing), 2011 HRTO 689 (CanLII),
<http://canlii.ca/t/fl3hc>

Ms. Couchie was terminated after the first of six sessions she was contracted to deliver on Aboriginal relations for staff from various Ontario government ministries. Evaluations from that first session included comments such as “whining about all the past historical injustices.” Her non-Aboriginal co-presenter also received negative reviews. One week later, Ms. Couchie’s contract was terminated at the direction of the Ministry of Municipal Affairs and Housing. Her co-presenter, however, was retained - with the direction that he get some “refresher work.”

The Tribunal concluded that Ms. Couchie was subject to “heightened scrutiny, disproportionate blame and over-reaction when compared to her co-presenter.” They also found that the Ministry “was prepared to remediate the poor performance of the non-Aboriginal person, but was not prepared to remediate the performance of the Aboriginal person.”

The Tribunal ordered:

- \$20, 000 to the Applicant for loss of the of the right to be free from discrimination

Gender and race

Chuvalo v. Toronto Police Services Board, 2010 HRTO 2037 (CanLII), <http://canlii.ca/t/2cvhm>

Ms. Chuvalo was terminated by the Toronto Police Service after she made an official complaint about harassment by her supervisor based on gender, ethnic/place of origin and ancestry..

The Tribunal concluded that Ms. Chuvalo had been harassed based on gender as well as ethnic/place of origin and ancestry. The Tribunal found that her supervisor “took an active and possessive interest in her... and then when she failed to reciprocate that interest, he expressed hostility (both overt and subtle) towards her.” The Tribunal found that this hostility included calling her a “bimbo” and negative remarks about her ethnic background and her English language proficiency. The Tribunal further found that his “behaviour stripped her of her dignity as a woman, served to isolate her within the unit and made going into work very stressful.”

The decision also held that the internal investigation of her harassment complaint was not properly conducted.

The Tribunal ordered:

- \$20, 000 to the Applicant as compensation for loss of the right to be free from discrimination
- The Toronto Police Services to retain the services of an external human rights expert to develop training material for the investigation of harassment, discrimination and reprisal complaints by its Professional Standards Unit
- The Toronto Police Services to conduct training of investigation personnel within four months of the date of the decision.

Gender/sexual harassment

Kotevski v. 1217993 Ontario Wimpy’s Diner, 2011 HRTO 705 (CanLII), <http://canlii.ca/t/fmd6t>

Ms. Kotevski was subject to repeated harassment over a period of two years that escalated in the last year of her employment. She was subjected to sexual assault by her employer, and afraid and anxious to be alone in the restaurant.

The Tribunal found that “the Applicant has suffered fear, humiliation and loss of self-respect, a loss of dignity and damage to her self-esteem and confidence. The effects of her treatment at

work have affected her personal and family life.”

The Tribunal ordered:

- \$ 40, 000 to the Applicant as compensation for the loss of the right to be free from discrimination
- \$1228 to the Applicant as compensation for wage loss
- The Respondent to review the Ontario Human Rights Commission’s Policy on Preventing Sexual and Gender-based Harassment
- The Respondent to develop a written policy for dealing with complaints of harassment and send a copy to the Human Rights Legal Support Centre for the Applicant.

Gender/sexual harassment

Harriott v. Money Mart, 2010 HRTO 353 (CanLII), <http://canlii.ca/t/285gw>

Ms. Harriott was subjected to sexual harassment by her supervisor at a Toronto Money Mart office and complained to the district manager.

The Tribunal found that the Money Mart district manager “proceeded to attack the Applicant about the validity of her complaint and whether she understood what sexual harassment was, despite the fact that she was the company representative who knew of the complaints that she had received in previous months from other female employees.” The Tribunal found that the harassment was “relentless” and that the company had “completely failed” to investigate complaints.

The Tribunal ordered:

- \$ 30,000 to the Applicant for violation of the inherent right to be free from discrimination and harassment
- The Respondent to amend their harassment and discrimination policy and to distribute it to every employee in Ontario
- The Respondent to train all Ontario managerial staff about human rights within 6 months from the date of the decision, covering all basic principles of human rights law including what constitutes sexual harassment, the obligation to maintain a harassment-free workplace and the components of a good investigation process.

Family status

C.D. v. Wal-Mart Canada, 2010 HRTO 642 (CanLII), <http://canlii.ca/t/28x2w>

C.D. worked weekdays so that she could be free on evenings and weekends to take care of her disabled grandson. She was the only source of support for her grandson and, due to his unique needs, was the only person capable of caring for him. Wal-Mart changed her hours of work, requiring her to work evenings and weekends. Wal-Mart reduced her hours when she refused, bringing her under the benefits threshold.

The Tribunal ordered:

- The Respondent to allow C.D. to work specific times on weekdays when she is not required to attend to the unique needs of her family member

Country of origin

Dhamrait v. JVI Canada, 2010 HRTO 1085 (CanLII), <http://canlii.ca/t/29tnd>

Ms. Dhamrait and Mr. Gill were told by their employer that they should speak English not Punjabi during their lunch break. They both filed human rights applications after they were terminated. The Tribunal found that one of the terminations was linked to discrimination but that the other termination was because of downsizing and not discriminatory.

The Tribunal ordered:

- \$ 3, 000 to each Applicant for loss arising from the infringement of their rights under the *Code*
- \$18, 500 for lost wages to Ms. Dhamrait
- \$ 10, 000 to Ms. Dhamrait with respect to the termination of her employment
- Reinstatement of Ms. Dhamrait to her former position

Khan v. Lynx Trucking, 2010 HRTO 265 (CanLII), <http://canlii.ca/t/280zq>

Ms. Khan was repeatedly subject to racist slurs at her workplace and witnessed verbal assaults directed at other employees of diverse racial backgrounds. She repeatedly told her employer to stop and was ultimately fired.

The Tribunal found the “deliberately cruel references to the Applicant ... to be indications that the (employer) considered the Applicant inferior.” The Tribunal noted that the evidence of current employees testifying on the owner’s part was “inconsistent, troublesome” and “attempting to hide aspects of (his) behaviour, most particularly his use of racial comments, and present him in a more favourable light.”

The Tribunal ordered:

- \$25, 000 to the Applicant for violation of the inherent right to be free from discrimination and harassment, and for injury to dignity, feelings and self-respect
- The employer to hire a human rights expert and develop a human rights and anti-harassment policy within 6 months to be distributed to current and all future employees
- The employer to complete human rights training.

Maciel v. Fashion Coiffures, 2009 HRTO 1804 (CanLII), <http://canlii.ca/t/26d44>

Ms. Maciel was terminated on her first shift immediately after telling her employer she was pregnant.

The Tribunal found that Ms. Maciel’s pregnancy was “likely the only factor in the Respondent’s decision to terminate her employment.” The Tribunal noted, “I am mindful of the vulnerability of the Applicant. She was young, just out of school, and coping with an unplanned pregnancy. This was to have been her first full-time job, which she testified she was very excited about, making the experience that followed that much more distressing.”

The Tribunal ordered:

- \$15, 000 as compensation for the loss of the right to be free from discrimination
- \$9,060 to the Applicant for lost wages
- \$11, 659 as compensation for her loss of maternity leave and parental leave benefits
- The employer to implement a policy regarding accommodation of pregnant employees

Simpson v. JB & M Walker, 2010 HRTO 819 (CanLII), <http://canlii.ca/t/29bdq>

Ms. Simpson needed temporary modifications to her job at Tim Hortons after experiencing two work-related injuries. After initially complying with the restrictions set out by Ms. Simpson's doctor, her employer became impatient and demanded that the employee return to her pre-injury job. When she insisted on following her doctor's instructions, the employer began to harass her daily, alleging that she was faking her injuries.

The Tribunal found that the individual Respondent spoke to Ms. Simpson on multiple occasions demanding that she return to work when she felt she was medically unable to do so. The Tribunal held that "this alone would constitute a course of vexatious behaviour. Moreover, it is common ground that on the last occasion the individual Respondent spoke directly to the Applicant and suggested to her that if she was found to have defrauded the WSIB, she would have to pay the WSIB back. This was sufficiently upsetting that the Applicant wound up in tears and commenced a stress leave following her shift. Even if the individual Respondent was unaware that his comments were unwelcome, a reasonable person in the Respondent's position would know that they were."

The Tribunal ordered:

- \$ 15,000 to the Applicant as compensation for the loss of the right to be free from discrimination
- \$ 13, 896 to the Applicant for lost wages

Disability

Torrejón v. 114735 Ontario, 2010 HRTO 934 (CanLII) (Decision on Merits)

<http://canlii.ca/t/29jff>

2010 HRTO 1513 (CanLII) (Decision on Remedy) <http://canlii.ca/t/2bkqh>

Ms. Torrejón was terminated from her job after she advised her supervisors that she required an indefinite leave to receive treatment for breast cancer.

The Tribunal found that "the Respondent acted upon this mistaken belief that it could terminate the employment of the Applicant, who was going to require time off work for surgery and treatment, without regard to whether or not her disability-related absence could be accommodated short of undue hardship."

The Tribunal ordered:

- \$20,000 to the Applicant as compensation for loss of the right to be free from discrimination
- \$2,640 to the Applicant as compensation for loss of employment income
- Human rights training for the supervisors involved

Disability

Vetricek v. 642518 Canada, 2010 HRTO 757 (CanLII) <http://canlii.ca/t/294xg>

Mr. Vetricek's employer knew he had a shoulder injury that required a medical absence from work. His contract was changed several times and he was ultimately laid off. The company admitted that one of the reasons for the layoff was the absences from work.

Shortly after Mr. Vetricek showed his employer his x-rays and inquired about his health benefits, he was fired. The Tribunal found that the "stated reason for terminating the Applicant is not in accord with the facts". The Tribunal concluded that the employer terminated Mr. Vetricek because of potential absences as a result of his continuing disability.

The Tribunal ordered:

- \$15,000 to the Applicant as compensation for loss of the right to be free from discrimination
- \$52,000 to the Applicant as compensation for wage loss from the date of termination to the date of the hearing

Hearings in the area of services

Disability

Frankson v. Workplace Safety and Insurance Board, 2011 HRTO 2107 (CanLII)

<http://canlii.ca/t/fnzpzm>

Mr. Frankson alleged the Workplace Safety and Insurance Board (the WSIB) discriminated against him on the ground of disability when it changed his Labour Market Re-Entry (LMR) program because of his learning disability. He was moved from a 3 year LMR program to a 5

week program because they refused to provide accommodation for his learning disability in the original program.

The Tribunal found that the WSIB decisions regarding benefits are “services” under the Code and that WSIB decision makers are not covered by the doctrine of judicial immunity. The WSIB’s exclusive jurisdiction to determine the suitability, content and implementation of a Labour market Re-entry (LMR) program plan was found not to deprive the Tribunal of its jurisdiction to determine whether the WSIB had failed to take into account the accommodation of the Applicant’s disability.

The Tribunal ordered:

- \$5,000 to the Applicant as compensation for loss of the right to be free from discrimination
- The WSIB to amend its Labour Market Re-entry policy to accommodate disabilities, including non-physical disabilities such as a learning disability

Seberras v. Workplace Safety and Insurance Board, 2012 HRTO 115 (CanLII), <http://canlii.ca/t/fppjj> (intervention only)

The Centre was invited by the Tribunal to intervene in a leading case to determine whether the Workplace Safety and Insurance Board (WSIB) is in fact a service. The Tribunal assigned a three-person panel. The Applicant was challenging a WSIB policy that denied him benefits because of the nature of his disability – chronic stress. The WSIB challenged the jurisdiction of the Tribunal to hear the application.

The Tribunal determined that it had jurisdiction to hear the application and to determine if the WSIB policy was discriminatory. It found that it can hear and decide a claim that a statutory benefits scheme had denied benefits on a discriminatory basis, even if the denial is contained in a decision of the other statutory body. The provision of benefits was held to be a “service” under the *Code*.

Hearings in the area of housing

Disability

DiSalvo v. Halton Condominium Corporation No. 186, 2009 HRTO 2120 (CanLII), <http://canlii.ca/t/2740f>

Mr. DiSalvo required a ramp for the front door of his condominium townhouse. The Condominium Corporation refused to pay for the ramp, insisting that Mr. DiSalvo bear the full costs associated with it.

The Tribunal found that “even where the Applicant is the only individual benefiting from the accommodation measure, unless undue hardship is established, the *Code* requires that the costs of the reasonable accommodation be borne by the condominium corporation ... I find that by insisting on a position that was wrong, at law, by failing to consider alternatives, and by creating a barrier to substantive discussions, the Respondent (Halton Condominium Corporation No. 186) has also failed to meet its procedural duty to accommodate the Applicant (Mr. DiSalvo).”

The Tribunal ordered:

- \$12,000 to the Applicant in respect of compensation for loss of the right to be free from discrimination
- The purchase, installation and maintenance of a ramp at the front entrance of the townhouse
- A human rights policy and a complaint mechanism to be developed.

Disability

Dixon v. 930187 Ontario, 2010 HRTO 256 (CanLII), <http://canlii.ca/t/27xnh>

Mr. Dixon uses a wheelchair. He and his wife lived in a building that was not accessible, making it impossible for him to travel independently. The Dixons asked the landlord to modify the building entrances and repeatedly asked for a transfer to a ground floor apartment because the elevators were unreliable.

The Tribunal found that “(The landlord) appeared to take the position that he was entitled to substitute his judgement for that of the Dixons as to what they needed and where and how

they should live ... Both persons with disabilities and persons on social assistance tend to be subjected to harmful stereotyping as well as societal barriers that have an effect on their dignity.”

The Tribunal ordered:

- \$10, 000 to the Applicant for compensation for loss of the right to be free from discrimination
- Reduction of the Applicant’s rent by \$136.61 per month until the Respondent has offered the Applicant a one-bedroom apartment on the first floor of the building
- \$2595.59 to the Applicant for loss occasioned to date by its refusal to allow a transfer within the building
- The Respondent to offer the next available apartment on the first floor to the Applicant.
- The Respondent to ensure that the front and back doors and entryways of the apartment building are accessible to people in wheelchairs by six months from the date of the order, including providing a ramp or grading and installing electronic door opening devices
- The Respondent to retain an expert on human rights issues within three months of the order, and to undertake an appropriate training course for its managerial staff on anti-discrimination practices relevant to tenants.

Disability

Jakobek v. Toronto Standard Condominium Corporation No. 1626, 2011 HRTO 1901 (CanLII)

<http://canlii.ca/t/fnj13>

Mr. Jakobek’s condominium refused to allow him to park his scooter in one of the parking spots he owns. The condominium also failed to accommodate his disability by refusing to install an automatic door opener on the doors located between the parking garage and the elevators. Although the condominium later allowed Mr. Jakobek (the Applicant) to park his scooter in his parking spot and eventually installed door openers two years after his request, the Tribunal found the condominium’s responses “untimely.”

The Tribunal ordered:

- The Condominium to make a donation in the amount of \$5,000 to the March of Dimes (at the Applicant's request)
- Ensure that the Condominium's by-laws, by amendment, specifically permit that mobility assistive devices can be parked in the parking garage
- Ensure that management complete the Ontario Human Rights Commission's eLearning module "Human Rights 101," and review the Commission's "Policy and Guidelines on Disability and the Duty to Accommodate"

Public interest remedies from settlements at mediation

The following public interest remedies were achieved as a result of mediated settlements arising out of individual human rights applications. The applicant and respondent's personal and corporate identities have been anonymized as many of these settlements contain confidentiality clauses.

SETTLEMENTS IN THE AREA OF HOUSING

Housing/disability – common areas must be accessible

A woman who uses a wheelchair was unable to gain access to her condominium's pool area.

As part of the mediated settlement, the property manager agreed to install a ramp in the area and complete human rights training.

Housing/disability –

A man lived in an accessible unit in a non-profit housing development. He requested a variety of modifications to his unit, the common areas, and all of his requests were refused. The housing provider said they did not have the funds.

The housing provider agreed to provide a range of physical improvements to his unit, the building, and they would implement a policy within 6 months for dealing with accommodation requests. They were also going to develop procedures so that future requests will be responded to within 30 days by a member of senior management. The policy will be posted on the website and accommodation request forms will be available in the building offices. The staff was to receive human rights training within 12 months.

Housing/race – landlord has obligations with respect to other tenants

A tenant was verbally harassed in the laundry room on the basis of her race by another tenant. She complained to the building manager who said she could do nothing.

The manager agreed to complete human rights training and post a copy of the *Human Rights Code* in the apartment laundry room. The other tenant also agreed to take training.

Housing/sex - gender identity

A woman who had transitioned from a man was searching for housing. Through a non-profit housing service, she found a place to live, but insisted that she be transferred to a woman-only building. The property manager disclosed her status to other people living in the building and the applicant felt very unsafe and targeted.

The non-profit housing service agreed to revise its training protocol to prioritize transgender and lesbian, gay, bisexual issues training. They also agreed that all new housing providers seeking referrals from the service must receive this training. In addition, they must receive such training every 18 months.

SETTLEMENTS IN THE AREA OF SERVICES

Services/disability – accessible public meetings

A speaker required sign language interpretation for a presentation, but the facility said they did not have enough notice and that it might violate some of their union's policies.

The organization agreed to:

- provide sign language interpretation and real time captioning at all forums and public meetings they initiate
- develop a referral list of ASL (American Sign Language) interpreters and real time captioners which will be available for all staff responsible for organizing public meetings
- include the symbols for ASL and real-time on all advertising materials for public meetings
- develop a human rights policy for providing service and for employees including their obligations under the *Code*, the right to equal treatment without discrimination or harassment on the basis of any *Code* ground, adverse effect discrimination, the principle of accommodation and the obligation to provide accommodation to the point of undue hardship, and procedures for how to deal with accommodation request and how to implement accommodation;
- create a complaints procedure for members of the public and employees who feel they have been discriminated against under the *Code*;
- create a procedure for how they will respond to such complaints; and,
- staff training on employees' obligations and rights under the *Code*.

Services/disability – equal access

A gym refused to provide ASL to a person who is deaf.

The manager agreed to complete human rights training and agreed to provide interpretation for any programs offered at any of their locations.

Services/disability – service animals

A man with a service dog was refused service by an individual taxi driver.

The company agreed to complete human rights training for all employees, a human rights policy was to be developed with third party assistance which will include information about accommodation of both employees and customers.

Services/disability – policing

The Applicant was a man who is deaf and uses ASL and ASL-English interpreters for his interactions with the public. After a dispute with his (hearing) neighbours, he was arrested along with his neighbour. On the way to the station and at the station, the Applicant repeatedly requested an ASL Interpreter. None was provided while he was held at the station for over 3 hours. He was brought into an interrogation room and again requested an interpreter, but was instead given documents to sign. He was not told when an interpreter would be available, or if they were making efforts to locate one. His parents had also arrived at the station and were offering to help communicate, but the officer refused to allow this. He signed the papers and was released.

The police service agreed to implement a monitoring system in which all occurrences involving deaf persons are reviewed. Regular and updated training will be provided to staff in order to better serve the needs of the deaf community.

Services/disability – all franchises to receive training

A store owner refused to allow a young woman using a wheelchair into his store, arguing that it was too small and the wheelchair would be disruptive.

The store owner agreed to complete the Ontario Human Rights Commission's Human Rights 101 and the franchisor agreed to amend its training manual to highlight for franchisees the importance of complying with the *Human Rights Code* when dealing with customers.

Services/disability - education

A college student was not being properly accommodated and staff were engaging in stereotypes about her ability to participate and her capabilities.

The college agreed to individualized accommodation. The college agreed to epilepsy awareness training by an epilepsy advocacy organization for all instructors at the school, to be repeated annually. The college retained an epilepsy advocacy organization to develop a college-wide seizure response plan.

Services/race – racial profiling

A racialized family was enjoying a recreational facility. One of their children began playing a radio and when they were asked to, they turned it off with an apology. A complaint was also made to staff at the facility, whereupon the family was told to leave the park and escorted out by police. The family felt it was because of racial profiling.

The facility agreed to retain a community based organization to review and give input regarding training for racism, racial profiling, and cross-cultural communication issues. This training will be given to all staff as a pilot with a view to implementing in other similar recreational facilities in the same jurisdiction.

Services/Race, Colour, Ancestry, Place of Origin, Ethnic Origin, Creed, Reprisal

A Muslim man who observes a halal diet had advised correctional staff of this requirement and made it clear that under no circumstances could he eat pork or any food that contained pork. He reported that his dietary restrictions were the target of mockery and disrespect. There were several incidents where he was served pork or a food with pork product in or on it. There were incidents where the cook, the individually named respondent, told him he had put pork juice on his food, or dangled pork in his face in a taunting manner.

The superintendent agreed to hold a training session for the kitchen staff on the accommodation of special diets for religious reasons.

Services/ Race, Colour, Ancestry, Place of Origin, Citizenship, Ethnic Origin

The applicant went to a convenience store in the early hours of the morning. He had been there a number of times before. There were two male employees in the store at the time. One of the employees was familiar with the Applicant, but the other employee was new. The new employee was watching him and following him around the store. The Applicant picked up the items he wanted and went to the cashier. The new employee accused him of stealing. He turned out his pockets in front of the store camera to show he did not take anything.

The employee called him a n----- . After the n-word was used, the Applicant threw a plastic bottle towards the employee but missed him. The new employee called the police and told the Applicant he would be going to jail and “you people are criminals to the police.” When the police arrived he was searched and put in a police car.

The store agreed to:

- Amend their internal employee agreement to reflect language in the *Human Rights Code*

- Educate staff to observe and uphold the *Code* in the treatment of customers, particularly recognizing the dignity and worth of everyone
- All new employees in any store in Ontario will sign the amended agreement
- All new employees in Ontario shall be provided with a copy of the Ontario Human Rights Commission's (Commission's) Code card
- The new agreement will be circulated to all existing employees in Ontario

Services/ race, colour, ancestry, place of origin, citizenship and ethnic origin – company also responsible for conduct of volunteers

A woman and her daughter were speaking in their mother tongue went to a retail store that had a number of volunteer staff. One of the staff people told her that she should speak English and made many derogatory comments; including referring to her and her family as “you people” and telling them that they were not welcome at the store. The woman complained to the on-site supervisor and the head office and received no response.

The store agreed to develop a human rights policy. The policy was to be included in their volunteer handbook and volunteers will receive training on the policy. The policy will include human rights issues specific to newcomers and a complaints process. They were to post notices about the policy and the complaints process in the store.

Services/sex - breastfeeding

A woman was shopping in a women's clothing store when she sat down to breast feed her child. One of the employees told her she could not do that in public. The woman said it was a perfectly natural thing to do and refused to move into a dressing room as requested.

The store agreed to send an email to all staff across Canada reminding them of their obligations under the *Human Rights Code* and a woman's right to breast feed. They also agreed to provide a comfortable nursing environment in each store and post a notice about accommodation under the *Human Rights Code* in every store.

Services/sex - gender identity

A transsexual woman was denied access to the women's washroom at a shopping mall by three security guards. She tried to show them a letter from a gender identity clinic, which she carries at all times, and a page from the Ontario Human Rights Commission's discussion paper “Towards a Commission Policy on Gender Identity” relating to gender-segregated services and facilities. They refused to listen to her. They escorted her out of the building and banned her from re-entering.

The security company agreed to:

- Training for all of its security guards across province about use of gender segregated washrooms by transsexual individuals within six months;
- Training for all security guards at that particular mall about use of gender segregated washrooms by transsexual individuals within seven days of the mediation ending;
- Establish a protocol for situations where a security guard has concerns about an individual's self-identification.

Services/sex - transgender

A young woman who was living as a male at school had a range of difficulties with staff at school about his relationships, washroom facilities, school trips, etc. The experiences created a great deal of stress and difficulty for him throughout high school.

The school district created a comprehensive range of policies for the accommodation of transgendered youth, including detailed policies about: need-to-know, student records, field trips and washroom facilities. There was also going to be extensive staff training to identify and confront transphobia in each school.

Services/sexual orientation

A man called to book a motel room and was told there were vacancies. When he and his partner entered the lobby to pay, the owner said that she did not have a room for two men. They were refused service.

The motel owner agreed to post a copy of the *Code* in lobby of motel and receive training.

Services/disability - education

A student at a college approached the professor at the end of a class to tell her that he is bi-polar and may need accommodations during the year. The professor responded by saying that she could tell he was on some type of medication. The remark, which was not intended to discriminate, had a devastating impact on the already distressed student, causing him to leave the class and ultimately the college.

The college agreed to include information relating the *Code* and internal and external mechanisms to all new students in their orientation package. All staff would attend anti-stigma training.

SETTLEMENTS IN THE AREA OF EMPLOYMENT

Employment/colour, ethnic origin, place of origin, ancestry, reprisal – over scrutiny

A Black woman originally from the Caribbean who worked for a medium sized company for approximately 6 months. The first few months went well. In the fourth month, her supervisor used a racial slur when speaking with her. On another occasion, her supervisor made demeaning comments about people from the Caribbean. Her supervisor apologized and the comments stopped, but she noticed that the supervisor began over-scrutinizing her work and the demands on her increased.

The company agreed to create an anti-discrimination policy within 6 months and training for all staff within one month of the policy being completed.

Employment/country of origin, creed, disability, sexual orientation

A man was constantly subjected to discrimination based on his ethnic origin and religion. One of his colleagues constantly taunted him about being gay. When he complained about the harassment, his supervisor told him to “grow some balls.” When injured while at work he was told that if he contacted WSIB, he would be fired. He developed severe depression. When he requested time off he was fired.

The employer agreed to retain experts for training of all management and staff and policy implementation.

Employment/disability – accommodating anxiety

A waitress with anxiety requested that she be allowed to work only day shifts. She was fired when she refused to accept night shifts.

The restaurant agreed to get human rights training from an outside expert for all management and to follow up with training of all staff about rights and responsibilities under the *Code*, as well as distribution of the training materials to all current and future staff.

Employment/disability

An employee of a retail store provided a note from his doctor that stated owing to his disability, he could not work nights. The store manager refused.

The company later agreed to develop a national policy about the duty to accommodate and disability. All human resources and store managers across Canada were to be trained in the new policy.

Employment/disability – failure to hire

A woman applied for a job with an agency that assists people with disabilities. She has a muscular condition and requires a wheelchair. The employer told her they did not think she could physically do the job after her interview.

The organization agreed to complete training staff on human rights and disability issues, which was to include the Applicant coming to speak first-hand about the impact that the discrimination had on her.

Employment/disability - injury

A woman worked as a sales associate for a retailer before she was injured on the job. She went on a 2 month leave and then returned to work with accommodations. After two weeks back on the job, she received a series of written warnings for minor issues such as taking too long to smoke a cigarette. She contested most of the warnings. One week later she was fired.

The company agreed to develop a guideline on accommodation and employees with disabilities which will be distributed to every staff member in every store in Canada, including corporate office, within 6 months.

Employment/race, colour, ethnic origin, place of origin, ancestry – hiring practices

A man originally from the Middle East applied for a position with a publishing company.

He received a phone message from the company indicating they had an interest in scheduling an interview in person. When he called back, a phone interview was conducted. Near the beginning of the call he was asked about his accent and where he was from. He identified his ethnicity. The interview continued, including a discussion on salary negotiations, but no in-person interview was set up. When he called back he was told that he negotiated too much on the salary issue and that, “they were not selling camels here.” He was told that the company had hired someone else and hung up the phone.

The company agreed to anti-discrimination training and materials with a focus on hiring to be provided to the directors, including the person who had conducted the interview. Anti-discrimination training was to be provided to all managerial and supervisory staff thereafter, with written confirmation that training has been completed with a synopsis of areas covered and materials provided.

Employment/race – failure to promote

A person of Asian descent who had been working at a private college for over five years applied for a more senior position. A co-worker who had a history of treating Asian colleagues badly got the job and began harassing the person, putting them on probation for three alleged

errors. He felt this was discriminatory and reported discrimination to the college which did nothing.

The college agreed to carry out annual human rights training for staff.

Employment/race – company dress code discriminatory

A Black woman filed an application based on race and gender because she experienced discrimination due to her hairstyle. The respondent agreed to:

- Change their grooming policy to allow “dreadlocks”
- An update to the company’s website to include information about the *Human Rights Code*
- Human rights training

Employment/race, origin

The new owner of a hotel wanted to work with someone from his own culture, and fired the Applicant who had been working there for some years. Other employees who were not of the owner’s origins were also terminated. The hotel agreed to develop a full human rights policy in line with the *Code*, including an internal complaints mechanism. They also agreed to give training for all employees on the policy and each employee was to receive a copy of the new policy.

Employment/race, colour, place of origin, citizenship, ethnic origin, failure to investigate and reprisal – discriminatory remarks from customers

A man who worked at a call centre was subject to repeated racist remarks from callers. He raised the issue with his supervisors and management but they did not respond. When he said that he thought it was a human rights issue and was going to do something about it, he was fired.

As part of its training for all new hires at its call centre, the company agreed to specifically train employees on their rights and the employer’s obligations in situations where customers subject employees to discriminatory or harassing conduct. They also agreed to distribute a memo to all existing employees clarifying that discriminatory or harassing statements by customers on the basis of race, place of origin, ethnic origin or any other prohibited grounds of discrimination will not be tolerated by the company. The memo was also to remind employees of their right to speak to a supervisor or other member of management regarding those issues.

Employment/sex/sexual harassment and sexual orientation

A lesbian was the only woman on a construction crew. She was harassed by two employees on the basis of both her gender and her sexual orientation.

The company agreed to get human rights training for management and the posting of the *Human Rights Code* in all operational manuals.

Employment/sex/sexual harassment – new policy protects patients too

A woman worked at a medical clinic in an administrative capacity. A medical practitioner at the clinic started harassing her about her physical appearance and made sexually charged comments. Also, there were repeated references to her religious beliefs.

The clinic agreed to develop a human rights policy and training in area of sexual harassment and creed, as well as human rights policies specifically about how patients should be treated.

Employment/sexual harassment

A supervisor at a large manufacturing plant sexually harassed the Applicant, who was worried about all of her other female colleagues as well, many of whom are new immigrants and don't speak English.

Both corporate respondents agreed to implement a human rights policy with a complaints mechanism and all managers and supervisors will be trained on the policy. Furthermore, information sessions will be provided to employees about the new policy in their own languages.

Employment/sex – transgendered employee's claim leads to training across North America

A transgendered person who identifies as male was asked to wear a dress in a role at an entertainment complex. He disclosed to his employers that although he was born as a woman he identifies as a man and would not be comfortable in a dress. His employers refused and pulled him from the role and refused to discuss the issue further.

The company agreed to update their antidiscrimination and human rights policy to include transgendered, transsexual employees and how they can request accommodations. The handbook will be distributed to all employees in both Canada and the U.S.

Employment/sexual harassment

A woman worked as a bartender for about a year (and had previously worked at other locations of the same chain and had great performance feedback). She experienced sexual harassment by a manager, including comments about her body and he tried to kiss her. After she rejected his advances and reported the incident to the general manager, she began to feel she was being

overworked and her work was being unduly monitored by the harasser. She complained again. Shortly after, she was fired for missing her shifts and “insubordination.”

The company agreed to obtain human rights training within 6 months by an external consultant.

Employment/sexual orientation – homophobic colleagues

A gay man worked as a full-time customer services representative at a call centre for over four years. He reported repeated verbal harassment from his colleagues to his supervisors, but was not satisfied that they took it seriously and felt he had to resign.

The company agreed to human rights training for supervisory employees directed at harassment in the workplace; training to be initially provided by an outside agency or counsel and subsequently provided by the human resources manager on an annual basis.