

Emslie v. Doholoco Holdings Ltd. o/a The UPS Store #425

[COMPLETE DECISION PDF](#)

SUMMARY

The complainant filed a complaint against her former employer under section 19 of *The Human Rights Code* alleging that the President and owner sexually harassed her.

The Respondent did not appear at the hearing.

The Adjudicator denied the Commission's request to protect the complainant's identity in the written reasons for his decision. The Adjudicator also denied the Commission's request to amend the complaint to add the President as a respondent in his personal capacity.

The Adjudicator determined that the President was the directing mind of the respondent and in a position of authority over the complainant and that he not only made repeated sexual solicitations or advances towards the complainant, but also physically touched her several times, without her consent. The Adjudicator confirmed that the complainant was not required to object to the harassment at the time as the test is whether a reasonable person would realize the conduct was unwelcome. He noted that the complainant did tell the respondent that she found his conduct objectionable but the conduct did not cease and the complainant did not protest more forcefully for fear of losing her job.

Remedy: The Adjudicator awarded the complainant \$15,000.00 in compensation for injury to her dignity, feelings, and self-respect resulting from the harassment and \$16,317.55 in compensation for lost income. He also awarded the complainant \$5,000.00 in exemplary damages because based on the malice and recklessness of the President's actions. He further ordered the President to attend a workshop on sexual harassment and to provide evidence of this to the Commission. He also ordered the President to deliver to each employee of the Respondent a copy of the Commission's policy on harassment and to provide to the Commission a signed acknowledgement from each employee that he or she has received the policy, within thirty days of his decision, and to develop and implement a sexual harassment policy satisfactory to the Commission in form and content, post it at each workplace that he operates and deliver a copy to each employee.