

THE MANITOBA HUMAN RIGHTS COMMISSION

**BETWEEN:**

JANE DOE,

**Complainant,**

- and -

HARRY ROSEN INC.,

**Respondent.**

**DECISION**

**Adjudicator:** Kristin L. Gibson

**Appearances:**

Heather Unger.....Counsel for MHRC

Trevor Lawson.....Counsel for the Harry Rosen Inc.

Nicole Smith.....Counsel for Jane Doe

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**DECISION**

1. Further to the position taken at the pre-conference hearing I have been requested by the complainant, through counsel, to order anonymization of the public notice of hearing, a publication ban, and anonymization of the decision. I received a submission and authorities in this regard from complainant's counsel on June 1, 2020. The Commission, after noting that the complainant was no longer seeking a closure of the hearing, took no position on the requests. The Respondent did not provide any response to the submission or to the Commission's position despite being provided with ample time to do so.
2. Section 36(2) of the *Human Rights Code* (the "Code") provides that the Public Notice of hearing "shall contain the names of the parties unless the adjudicator, at the request of any party, decides that it would be unduly prejudicial in the circumstances to disclose the names of some or all of the parties in the notice".
3. Section 39(3) of the Code provides that adjudication hearings shall be open to the public, but that the adjudicator may prohibit publication or broadcasting of the identity of the party ... until the adjudicator's final decision has been rendered.

4. Finally, section 46 (3) of the Code permits the adjudicator to anonymize the decision if it is believed that disclosure of the identity of a party or a witness would “cause undue prejudice or hardship”.
5. The complainant has stated a number of concerns in requesting that anonymization occur at each step of the process, and her request is, as noted above, uncontested. These concerns include fear of retaliation and/or intimidation by the alleged harasser, damage to her reputation by virtue of having made a complaint against a former employer, and the personal and intimate nature of the evidence she will be providing to the tribunal. It is possible that there will be personal health information disclosed as part of that evidence, particularly in support of a claim for damages for mental distress and pain and suffering.
6. I accept the submissions made on behalf of the complainant and agree that these concerns, collectively and individually, are sufficient to persuade me to use my discretion to anonymize the matter at all stages, as requested.
7. Accordingly, I order pursuant to section 36(2) of the Code that the Public Notice of Hearing refer to the complainant as “Jane Doe”. I also order pursuant to sections 39(3) and 49(3) that there be no publication of the identity of the complainant until the final decision is rendered, and further that she shall continue to be referred to as “Jane Doe” throughout the proceedings and in any decision, reasons or publication arising from the hearing.

Dated at Winnipeg this 17<sup>th</sup> day of July, 2020

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**Kristin L. Gibson, Adjudicator**

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