

Horrocks v. Northern Regional Health Authority

[COMPLETE DECISION PDF](#)

SUMMARY

The complainant filed a complaint against her former employer under section 14 of *The Human Rights Code* alleging her employer discriminated against her in her employment on the basis of her disability (addiction to alcohol) and by failing to accommodate her special needs based on her disability and instead, terminated her employment.

The complainant entered into an agreement with her union and the employer that provided that she would, amongst other things abstain from alcohol both on and off work. While the complainant initially refused to sign the agreement and was terminated for failing to do so, she grieved that termination and began further discussions about the terms on which she would return to work. After being off work for a considerable period of time, she agreed to sign the agreement and abstain as required. Prior to returning to the workplace, the respondent employer terminated her employment on the basis of two reports that the complainant had been seen in the community and appeared to have been drinking

The respondent raised an issue regarding the jurisdiction of the adjudicator to consider a human rights matter that arises from a unionized workplace, arguing that the exclusive, or alternatively, more appropriate forum to consider the matter would be a labour arbitration. The respondent also argued that labour arbitrators have argued that signing a total abstinence clause was a bona fide occupational requirement of her position and further, that the agreement containing the total abstinence clause was a form of reasonable accommodation.

On the issue of jurisdiction, the Adjudicator determined that the essential character of the dispute between the parties fell within her jurisdiction as a human rights adjudicator. She found that she had jurisdiction to determine whether the complainant experienced discrimination in the manner alleged in the complaint and that in doing so, she would have to examine not only the terms of the settlement agreement but also the totality of the interactions between the parties.

She found that the complainant had been discriminated against on the basis of her addiction and that the respondent had not engaged in a process to determine her special needs based on her addiction that would result in an accommodation process. She also found that the respondent had not satisfied the requirement to substantively accommodate the complainant's disability-related needs and instead terminated her employment.

Remedy: The complainant was awarded \$10,000 in compensation for injury to her dignity, self respect and feelings. She was ordered to be reinstated to her former position with an accounting for her any loss of seniority, benefits or other financial loss upon being assessed by a professional with expertise in treating individuals with alcohol addiction to determine if she requires any accommodation. She was also awarded lost wages from the date that she was initially suspended from the workplace to the date of hearing. The respondent was ordered to develop a reasonable accommodation policy.