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For Immediate release

Adjudicator finds that Winkler woman was subjected to degradation and humiliation in sexual harassment complaint

A Government appointed human rights adjudicator has found that a young woman was sexually harassed by the owner operator of a UPS franchise, in Winkler Manitoba.

In a just released decision Adjudicator Peter Sim wrote that Mr. Douglas Homick was in a position of power “and repeatedly abused his power to degrade and humiliate the complainant.”

Since the impact of the harassment on the woman was severe, he awarded her \$15,000 in compensation for the injury to her dignity and self respect. “The harm she suffered went beyond simple injured feelings and included anxiety, depression, flashbacks and panic attacks which continued for several years,” he wrote. He also noted that the complainant feared for her job and livelihood at the time of the harassment and was subjected to a constant stream of sexual innuendo as well as more egregious physical contact.

In this case, the Human Rights Commission lawyer Isha Khan also sought exemplary damages. Although rarely awarded, Adjudicator Sim agreed, writing that there was “ample evidence of malice and recklessness” and awarded a further \$5,000 to the complainant, and over \$16,000 in lost wages because she was forced to leave the workplace due to the harassment.

Executive Director of the Manitoba Human Rights Commission Azim Jiwa is pleased that Adjudicator Sim has brought Manitoba in line with compensation awards made in the rest of the country for injury to dignity and self respect. “The Commission has been arguing in front of adjudicators for over ten years in favour of awards that recognize the severity of the harassment and the impact on the particular complainant in the circumstances. Up until now Manitoba has not always been in line with amount awarded elsewhere in the country,” he said. “Adjudicator Sim has brought to the public’s attention that awards in such cases in other provinces, can range from \$12,000 to \$50,000.”

Mr. Jiwa said that the Commission works very hard on educating employers and the public about their rights and responsibilities. “This case, however, went beyond not knowing,” he said.

After Ms Traci Emslie filed a complaint of sexual harassment, the Commission investigated and believed there was evidence to support the complaint. The Human Rights Commission has the authority to investigate a complaint but not to rule on it or order an award. The Board of Commissioners reviewed the investigation report and requested that an independent adjudicator decide on the case. Isha Khan Counsel for the Commission represented the public’s interest in this case. The complainant did not have legal representation, nor did the respondent.

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The respondent, Mr. Homick did not attend the hearing. In such situation Ms. Khan had the responsibility of presenting all relevant evidence found in the investigation as no defence was offered.

“Although Mr. Homick was given every opportunity to participate in the adjudication process, he did not. The Commission has an obligation to present evidence that is relevant, whether it supports the complainant’s allegation or does not,” said Mr. Jiwa. “It is also important to know that the Commission will not be deterred when a respondent is not cooperating.”

Adjudicator Sim also addressed two important points of public interest. First he acknowledged that a complainant does not have to express an objection to the acts of harassment at the time they occur and second; the aim of a human rights award is to put the complainant in the position she would have been in, had she not been harassed.

The staff of the Manitoba Human Rights Commission receives, mediates and investigates complaints of discrimination under *The Human Rights Code*. The Board of Commissioners screens the complaints and decides, after reviewing the investigative report, whether or not there is enough evidence to refer the complaint forward and let an independent adjudicator make a decision. The Commission does not have the authority to make a final decision about whether the discrimination or harassment has been proven. Counsel for the Human Rights Commission presents the case in the public’s interest to an independent adjudicator, appointed by the Government of Manitoba. Both the complainant and the respondent have the choice as to be represented by a lawyer or not.

The complete decision can be found on the Commission’s website www.manitobahumanrights.ca.

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