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## **New decision confirms that Manitoba workplaces must be free from sexual harassment**

A recent decision of the Manitoba Human Rights Adjudication Panel reaffirms the right of employees to safe, harassment-free workplaces.

The case involves a woman (the “Complainant”), who was employed by New Age Automation (the “Respondent”) as an Executive Assistant. During her employment, the Complainant experienced ongoing sexual harassment from the company Owner. Although the employee rejected the Owner’s advances, his conduct persisted and escalated, forcing her to eventually quit her job. Following her resignation, the employee made a human rights complaint to the Manitoba Human Rights Commission, which the Commission referred to our provincial human rights tribunal, the Manitoba Human Rights Adjudication Panel, for a public hearing.

The Manitoba Human Rights Adjudication Panel decision found that the Owner’s conduct was demeaning, vulgar and threatening, particularly given the power imbalance between him and the employee. “The Complainant was subjected to unwelcome sexual solicitations and advances by [the Owner] almost every day . . . the only reason that the conduct stopped was because she left her position . . . the conduct . . . was invasive and constituted sexual assault” wrote Adjudicator Tracey Epp in her decision (at para 103).

“This case not only affirms the right of employees to safe, dignified workplaces, free from sexual harassment,” said Karen Sharma, Executive Director of the Manitoba Human Rights Commission, “it clearly sets out the obligations of employers – in particular people in trusted positions – owners, operators, directors, supervisors, etc. to refrain from engaging in harassing conduct. Given the power that these individuals carry, we must hold them to the highest standard of human rights.”

To remedy the discrimination and harassment faced by the Complainant, the Adjudicator ordered that New Age Automation pay the Complainant \$25,000.00 in damages for the injury to dignity, feelings and self-respect that she experienced as a result of the ongoing harassment.

The Adjudicator's award for damages for injury to the Complainant's dignity, feelings and self-respect is the highest amount that can be awarded under this type of remedy, since a limit was added to *The Human Rights Code* in 2022. This significant award recognizes the egregious nature of the conduct and the poisoned work environment that the Complainant was forced to endure. The Adjudicator further awarded the Complainant lost wages, given that she was forced to resign her position because of the harassment. While the company is no longer in operation, the Adjudicator ordered that the Owner and any other directors must undergo human rights training if the company is ever restored.

The Commission believes that this decision sends an important message that sexual harassment will not be tolerated in Manitoba. "The conduct of [the Owner] and therefore New Age was egregious, invasive and in some instances constituted assault. The conduct frightened the Complainant and left her feeling worthless," wrote Adjudicator Epp at para 112 of her decision. "The Complainant was vulnerable, both internally to the employment structure but also personally. New Age and [the Owner] preyed upon that vulnerability ... sexual harassment cases garner the highest damages awards, and this case is no exception. A message must be sent to other predatory employers and remind them of their obligation to provide a safe and harassment-free workplace."

The decision *Smith v. New Age Automation* can be found at <http://www.manitobahumanrights.ca/>

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