

# MHR *Connections*

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## Training Week at the Manitoba Human Rights Commission



Human Rights staff receives certificates after their training in Human Rights Investigation. From left to right Rowena Fisher, Simon Gillingham, Tracy Lloyd, Don Pranteau, Cheryl Dumont, Donna Seale (trainer and Manager of Investigation and Mediation) and Jackie Gruber.

## Women still losing opportunities in non-traditional occupations

Women continue to face discrimination in some non-traditional jobs.

In a recent decision, Adjudicator Lori T. Spivak found that that *The Manitoba Human Rights Code* had been contravened and that Sherry Dubeck had been discriminated against while she was employed by Vy-Con Construction. Connie Pearl Friesen, the registered owner of Vy-Con Construction, did not attend the hearing, which took place on October 15, 2002.

Sherry Dubeck filed a complaint with the Commission alleging discrimination. Specifically, she claimed that the terms and conditions of her employment, her work assignment, dress requirements and the decision to lay her off, were unreasonably based on her sex. Ms. Dubeck has worked in the construction industry, as a sheet metal worker, for the last three to four years in both Manitoba and Alberta.

According to Adjudicator Spivak, Ms. Dubeck's evidence established that she was denied the opportunity to work on an out of town project because she was a woman. Ms. Dubeck was laid off in November despite the company receiving a big housing contract. An excerpt from the Steinbach Carillon Newspaper revealed that Vy-Con Construction was looking for labourers as late as October 23, 2002 and others were not laid

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The Rights Connection by Janet Baldwin  
will return next month

## In Memory of Donna May 1952-2002

Donna May loved travelling, the Bombers, Big Ben and teddy bears.

When she left for her annual winter vacation, everyone expected to hear about her trip to Costa Rica on her return. Sadly, Donna passed away during her vacation.



In 1999, Donna celebrated 25 years working for the Manitoba Human Rights Commission and was proud to be a civil servant. Her professionalism was part of her nature, and the many years she spent working for the Government made her very knowledgeable. She was often the first person her colleagues went to see when they had questions. Donna knew how to get things done.

Donna had a generous and playful spirit. She was a long time contributor to the Children's Hospital Foundation and the Inter Varsity Christian Fellowship. Donna tirelessly promoted the Teddy Bears' Picnic and she combined her love of football and travelling by going on Bomber cruises every year. She counted bomber fans and players among her friends. Ken Ploen, Winnipeg's legendary quarterback, attended her memorial service, as did the staff of the Manitoba Human Rights Commission and its chairperson, Janet Baldwin.

Her colleagues will remember Donna's generosity and kind heart. We will remember her walking down the street reading a book or lovingly tending the office plants. The Commission sends its deepest condolences to Donna's parents, three brothers and sister.

## Settlements

When most of us think of age discrimination, we often think of being discriminated against for being “too old.” There can also be discrimination against the young. At the recent Manitoba Human Rights Youth Conference, students were reminded that human rights are not just for adults. The following settlements originated from complaints based on age discrimination.

### Past Events Influenced Policy

In 1997, a small fast food restaurant banned all students from a local junior high school during the lunch hour. This action was taken with the approval of the school’s principal. Apparently some students from the school engaged in destructive and/or illegal behaviour including damaging property and stealing.

Four years later, a 14-year-old student was asked to leave the restaurant when he admitted that he was from the same junior high school. He was informed that a policy existed stating that no one from that particular school would be served during the lunch hour. A complaint was filed with the Commission citing differential treatment based on age.

The policy to ban students from the restaurant may have been reasonable given the circumstances in 1997, but it was not necessarily reasonable today. Although both the principal and restaurant owner had labeled the offending students troublemakers, these students no longer attended the school.

A mediated settlement was reached. The restaurant owner agreed to remove the exclusion policy immediately and allow up to five students on the premises at any one time over the lunch hour.

### Mediation an Educational Experience for Everyone

In another complaint, a restaurant and age was again the issue. This time, however, smoking was at the heart of the matter.

In Winnipeg, some restaurants decided that

they would ban minors from their premises and permit smoking. In this particular complaint, the restaurant owner stated that prior to the City’s smoking by-law, minors only came to his restaurant to ask for change or to use the bathroom. He claimed that he could lose 50 per cent of his business if he banned smoking. He put up a sign indicating that persons under eighteen were prohibited as the restaurant permitted smoking. A complaint was filed and mediation was undertaken.

The complainant suggested that his children, who were the actual subjects of the complaint, meet with the restaurant owner to provide them with an educational experience. The parties met and a compromise was reached. The restaurant still permits smoking, and therefore does not serve minors until 3:30 each afternoon. After that, it is smoke free until closing at 9:00 PM. The complainant’s children were satisfied with this outcome and agreed that they and their friends would promote the restaurant among their peer group.

## Congratulations

Human Rights worker Elizabeth Bennett has been awarded a Certificate of Recognition from the Thompson Citizenship Council. Elizabeth received this honour on International Human Rights Day, December 10<sup>th</sup>, 2002 for “her excellent contributions to promoting human rights with a spirit of dedication and commitment.”

### Sponsor Acknowledged

The Manitoba Human Rights Commission gratefully acknowledges the generous contribution of **Partners for Careers (PFC)**. That organization’s name was inadvertently left off our Youth Conference sponsor list in last month’s Bulletin.

### Upcoming Event

Manitoba Embracing Change Secretariat invites you to a special screening of a docu-drama “Honour Before Glory”, at the Museum of Man and Nature Auditorium, on January 30, 2003. The film is about Canada’s only Black military battalion. Mr. Anthony Sherwood, producer, writer, director and actor in the film will be in Winnipeg. RSVP Denyse Saloranta at 984-8364 by January 22, 2003. The event is free. Refreshments will be served.

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off. Specifically, a male witness, who was employed by the company at the time, testified that only Ms. Dubeck was being laid off.

In her ruling, Adjudicator Spivak wrote, “In the absence of any evidence or justification from the Respondent as to why the Complainant was denied the opportunity to work and was laid off, I am bound to decide in favour of the Complainant.”

In addition to lost wages and damages for injury to Ms. Dubeck’s dignity, feelings and self respect, Adjudicator Spivak also ordered exemplary damages stating, “It is challenging enough for a young woman to try and work in a non-traditional occupation and this attitude and deliberate behaviour on the part of the Respondent does suggest an intent to denigrate and thereby merits an exemplary damage award.” Ms. Dubeck had testified that her supervisor laughed at her when she was denied out of town work and again, when he laid her off. Ms. Dubeck also testified that the supervisor had someone impersonate him during a telephone conversation. Adjudicator Spivak referred to this behaviour as “a wanton disregard for her dignity.”

Ms. Spivak is an independent adjudicator appointed by the Attorney General of Manitoba.

Ms. Friesen was ordered to pay Ms. Dubeck a total of \$3,470 for lost wages, general damages, exemplary damages and her expenses to attend the hearing. The adjudicator also ordered that Ms. Friesen of Vy-Con Construction “refrain from treating female employees differently in the future in terms of work opportunity unless they are able to establish that such treatment is based on bona fide and reasonable requirements or qualifications for the employment or position.”

The complete ruling can be found on the Commission’s website at [www.gov.mb.ca/hrc](http://www.gov.mb.ca/hrc)