



News Release: Manitoba Human Rights Commission

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SMOKING OR CHILDREN?

Some restaurants no longer banning minors

The Manitoba Human Rights Commission reports that many of the complaints against various businesses and services, which it accepted following the City of Winnipeg's introduction of a smoking bylaw, have been settled or withdrawn. The bylaw came into effect in January and bans smoking in establishments where minors are permitted.

Six of the complaints were filed against restaurants, which had chosen to exclude children from their facilities, rather than ban smoking. The complaints were withdrawn when the restaurants reversed their policies. Minors were again allowed on the premises, and smoking was banned in order to comply with the bylaw requirements.

Two additional complaints were filed by individuals who were minors and whose jobs had been terminated after the bylaw came into effect. In both cases, the former employers are non-profit organizations that elected to permit smoking at their events rather than to allow those under eighteen years of age to attend or work at the events. One complaint was settled when the former employer promised to rehire the complainant when he turned eighteen. The second was settled on the basis of a similar promise and a payment of damages.

The Commission says that caution must be used when service providers opt to take advantage of the wording of the bylaw to ban minors from their premises. "Meeting technical bylaw requirements does not necessarily constitute compliance with *The Human Rights Code*," said Commission Chairperson Janet Baldwin. "Children, as well as adults, are protected from unreasonable discrimination on the basis of age. It would be in exceptional circumstances that a service provider could prove that banning smoking, rather than children, amounts to undue hardship."

Under *The Human Rights Code*, the Commission is required to terminate proceedings where the parties have settled or withdrawn a complaint. It continues to receive and investigate additional complaints alleging that the exclusion of minors by restaurants and other facilities in order to comply with the City's bylaw is a violation of *The Code*. Recent information from the City indicates that a number of establishments, which previously allowed children into their premises, now do not.

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