

THE MANITOBA
HUMAN RIGHTS
COMMISSION



LA COMMISSION DES
DROITS DE LA PERSONNE
DU MANITOBA

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Sexual Harassment Ruling Upheld – Again

The Manitoba Court of Appeal has upheld a Court of Queen's Bench decision involving a sexual harassment case. In October 2005, Madame Justice Colleen Suche rejected the argument that the procedure followed by the Manitoba Human Rights Commission during a hearing, was unfair to the respondent. Thorvaldson Care Homes Ltd. filed an appeal of Madame Justice Suche's decision and raised the same procedural issues before the Manitoba Court of Appeal.

Thorvaldson Care Homes Ltd had alleged that during a human rights hearing in March 2002, Adjudicator Peltz relied on hearsay evidence and that the Commission had failed to disclose certain documents. Madame Justice Colleen Suche had found that Adjudicator Peltz had taken care not to rely on hearsay evidence and that the Commission was not required by law to disclose all documents in its possession as long the respondent had sufficient information to know the case against him. Madame Justice Suche dismissed, with costs, the application for judicial review by Thorvaldson Care Homes.

The Manitoba Court of Appeal heard the argument presented on behalf on Thovaldson Care Homes Ltd again on October 13, 2006 and immediately dismissed it with costs, indicating that here was no merit to any of the grounds of appeal.

In his decision, Adjudicator Peltz found that a female worker was sexually harassed by a co-worker while working at a personal care home and subsequently fired from her job. In his ruling, Adjudicator Peltz found that the caretaker of the personal care home subjected Jeanette Budge to sexual harassment and that management was aware of the problem. During the hearing, Ms Budge testified that the caretaker groped and verbally harassed her for ten months. Adjudicator Peltz found her evidence credible. It was also found that management failed to take steps to address the issue.

Adjudicator Peltz had ordered that Thorvaldson Care Homes Ltd pay Ms Budge 12 weeks wages plus \$4,000 in general damages for injury to dignity, feelings and self respect and that a harassment policy, acceptable to the Manitoba Human Rights Commission, be prepared and adopted. The Commission was also granted a monitoring order since the harasser was still employed at the home at the time.

The 2002 original decision can be found on the Commission's website www.gov.mb.ca/hrc and clicking on Legal Proceedings.

For more information, please contact:
Patricia Knipe
Communications Director
204-945-5112