

MANITOBA HUMAN RIGHTS BOARD OF ADJUDICATION

IN THE MATTER OF: The Human Rights Code RSM Cap H175
and In The Matter of a complaint between Christine Kallen
(Complainant) and Midwest Pallet Works Ltd. (Respondent).

BETWEEN:

CHRISTINE KALLEN,

Complainant,

- and -

MIDWEST PALLET WORKS LTD.,

Respondent.

DATE OF DECISION: JANUARY 24, 2012

BEFORE MANITOBA BOARD OF ADJUDICATION: LYLE M. SMORDIN

APPEARANCES BY:

COUNSEL FOR THE COMPLAINANT: ISHA KHAN

THE RESPONDENT: MIDWEST PALLET WORKS LTD.
(BRIAN BULLIED)

This claim was initiated by the Complainant on April 10th, 2008 with The Manitoba Human Rights Commission alleging that the Respondent has discriminated against her in her employment by terminating her employment on the basis of a disability and on the basis of marital status and relying on the fact that the Respondent has failed to reasonably accommodate her special needs based on her disability contrary to Section 14 of *The Human Rights Code*. The Respondent wrote to

the Commission on July 3rd, 2008 setting out the reasons they felt her claim should not succeed.

Since that time the Manitoba Human Rights Commission has been attempting to contact the Complainant both by telephone and by letter on numerous occasions with a view to advancing her claim. This matter was heard by teleconference on January 23rd, 2011 wherein counsel for the Commission indicated attempts to telephone the Complainant and messages left on her voice mail dated December 6th, 2010, January 13th, 2011, April 13th, 2011 and October 3rd, 2011. In addition two letters sent November 1st, 2010 and April 13th, 2011 had been directed to the Complainant without receiving any response to either the telephone messages or the letter. The Commission therefore put forward the position that since they were not able to communicate with the Complainant in order to establish her claim it was no longer in the public interest that this matter be continued.

I have admitted the following exhibits to the Hearing:

1. Designation of Board of Adjudication by Andrew Swan, Minister of Justice and Attorney General dated August 2010;
2. Manitoba Human Rights Complaint dated April 10th, 2008;
3. Midwest Pallet Works Ltd. response dated July 3N, 2008;
4. Notice of Hearing dated December 21, 2011;
5. Brandon Sun publication notice January 14, 2012;
6. Manitoba Gazette publication notice January 14, 2012.

I would therefore rule that the parties have received proper notification.

Under Section 42 of *The Human Rights Code* it is indicated that every adjudicator has exclusive jurisdiction and authority to determine any question of fact, law or mixed fact and law that must be decided in completing the adjudication and in rendering a final decision respecting the complaint. That decision under Section 46(1) is to be issued in writing accompanied by a written statement of the reasons with the statement of reasons to be sent to the parties.

After reviewing the circumstances and in particular the failure of the Complainant to respond to the letters and telephone calls and her seemingly unwillingness to pursue or continue to pursue the claim and based on the fact that The Human Rights Commission which has conduct of the mailer not being able to communicate with her, I find it is no longer in the public interest that this matter should continue and I am therefore dismissing the claim without costs.

Dated at the City of Winnipeg, in Manitoba, this 24th day of January, 2012.

LYLE M. SMORDIN, Adjudicator