

## ***Nachuk v. City of Brandon (Brandon Police Service) - April, 2014***

### [COMPLETE DECISION PDF](#)

#### SUMMARY

The respondent made a motion, pursuant to section 37.1 of The Human Rights Code, to terminate the adjudication of the complaint on the basis that the respondent had made a reasonable settlement offer, that the complainant rejected.

The complainant filed a complaint against the Respondent under section 13 of The Human Rights Code alleging that the Respondent discriminated against him on the basis of his disability including the reliance on a service animal, when three on-duty police officers insisted that he leave an establishment.

The respondent offered the complainant \$5,500 to compensate for injury to his dignity, feelings, or self-respect.

The Adjudicator proceeded to assess the offer on the basis that the facts in the complaint were proven to be true. He considered the policy underlying section 37.1, that the adjudicative process should not expend resources to adjudicate a complaint where the respondent has already made an offer that is the same or nearly the same as, or at least approximates, all of the remedies that an adjudicator would have ordered at a hearing of the complaint.

The Adjudicator determined that the offer of \$5,500 for injury to the complainant's dignity, feelings, or self-respect failed to reasonably approximate what an adjudicator would award under this remedial heading, in part because none of the cases relied on by the respondent in support of its offer involved the contravention of The Human Rights Code by police officers in the execution of their duty. He also considered the complainant's vulnerability in the situation and that injury to his dignity would be exacerbated as a result.

The Adjudicator determined that the complainant was not entitled to legal costs and that he did not need to decide on exemplary damages for any malice or recklessness involved in the contravention as he had already determined that the offer was not reasonable.

The Adjudicator dismissed the respondent's motion.