

Pasternak v. Manitoba High Schools Athletic Association Inc.

[COMPLETE DECISION PDF](#)

The Manitoba Court of Queen's Bench upheld the Adjudicator's finding of discrimination on the basis of sex.

SUMMARY

Two sisters filed complaints against the respondent high school athletic association under section 13 of *The Human Rights Code* alleging discrimination on the basis of sex because they were not permitted to try out for the men's hockey team.

The complainants alleged that they had played boys' hockey since they were young and that in Grade 10, they were signed up to try out for the men's hockey team. That year, for the first time, the respondent had established a women's hockey team and the complainants were advised that they had to try out for the women's team, because there was one. The complainants alleged that they clearly had competitive skills and therefore this rule was discriminatory. The respondent argued that the complainants should play on the women's team because they would help the less skilled women to play better and that allowing some women to play on men's teams on the basis of merit would have the effect of undermining the development of women's hockey.

The Adjudicator found that the respondent's rule was discriminatory on the basis of sex, as the women's team did not offer the same level of play and competition as the men's team. The complainants were denied the opportunity to be judged on the basis of their merit because they were not able to try out.

Remedy: The respondent was ordered to remove the requirement that females try out and play on female-only hockey teams if the school has one, and awarded the complainants compensation for their loss of skills during the 2004–2006 period by way coaching support and hockey school opportunities. The complainants were awarded general damages of \$3,500 each, as compensation for the injury to their dignity caused by the discrimination.