

Penner v. Fort Garry Services Inc.

[COMPLETE DECISION PDF](#)

SUMMARY

The complainant filed a complaint against his former employer under section 14 of *The Human Rights Code* alleging that he had been discriminated against on the basis of a criminal record when he was not provided with adequate opportunity within which to provide documentation of his criminal record and was terminated from his employment.

The complainant alleged that he had notified his employer during the interview process for a caretaker position in an apartment complex that he had been convicted on two occasions for "driving under the influence" of alcohol. He was advised that he would be considered "in training" and would not assume the full responsibilities of the position until he produced the documentation evidencing his criminal record. The respondent requested that he provide the documentation by a certain date, which was not possible, and ultimately terminated his employment before the deadline in any event.

The Adjudicator accepted that the criminal record check was a reasonable requirement because the complainant would have keys to all of the apartments when he assumed the full duties of the position and that the residents of the apartment complex were generally elderly and vulnerable to fraud and theft. The Adjudicator found that the complainant's employment was not terminated because of his criminal record or because he could not produce documentation by the required deadline. His employment was terminated because he demonstrated little interest in doing his job, walked away from tasks before they were completed, and was argumentative and defensive.

The complaint was dismissed.