

**MANITOBA HUMAN RIGHTS COMMISSION
BOARD OF COMMISSIONERS' POLICY**

**POLICY # P-4
version 1.1**

SECTION: Procedure

Effective date: October 8, 2014
REVISED DATE: January 1, 2022

SUBJECT: JURISDICTION – EXCLUSIVE JURISDICTION OF OTHER TRIBUNALS

Purpose:

The Manitoba Human Rights Commission (“Commission”) can only act within the authority given to it by *The Human Rights Code* (“*The Code*”) and case law. This policy sets out circumstances in which the Commission does not have jurisdiction to consider a complaint due to the exclusive jurisdiction of another administrative body. Where there is any conflict between this policy and *The Code*, *The Code* will be followed.

Context:

The Commission is vested with broad jurisdiction over violations of *The Code*. However, some administrative bodies are given the *exclusive power* to decide questions of law arising from the law or statute that governs them.

The Code is paramount over any other provincial law in Manitoba. Section 58 of *The Code* states that the rights and obligations covered by *The Code* have paramount status. This means that they take precedence over the rights and obligations in any other law, unless specifically displaced by the other law.

Given the fundamental importance of human rights legislation, the Supreme Court of Canada has also established that administrative bodies with the authority to decide "questions of law", other than human rights commissions or tribunals, may also consider and apply human rights laws.

According to the Supreme Court of Canada, determining whether another administrative body has exclusive jurisdiction over a dispute involves conducting a two-part test. First, it must be shown that in enacting another law, the legislature intended to give another administrative body the sole authority or exclusive jurisdiction to consider matters described in that law. If the law uses the words "exclusive jurisdiction" or includes a mandatory dispute resolution clause, that is enough to show that the legislature intended for it to have exclusive authority over those issues described in the law. Second, if it does, the Commission will analyze which elements of a human rights complaint, if any, would fall within the scope of the administrative body's exclusive jurisdiction given the entire context of a complaint and their enabling law.

The Worker's Compensation Board, Manitoba Public Insurance Corporation, and

Automobile Injury Compensation Appeal Commission are examples of administrative bodies that are charged with the exclusive authority to determine certain matters because of the language used in their enabling law.

Furthermore, according to the wording of Manitoba's *Labour Relations Act* and the Supreme Court's ruling in *Northern Regional Health Authority v Horrocks*, 2021 SCC 42, human rights disputes arising from the interpretation, application or alleged violation of collective agreements in unionized workplaces fall under the exclusive jurisdiction of a labour arbitrator, and are thereby outside of the Commission's jurisdiction. To establish whether the dispute fits within the scope of an administrative decision maker's exclusive jurisdiction, the Commission will identify the essential character of the dispute by looking at the factual circumstances leading to the dispute and not its legal characterization.

Where the subject matter of a complaint falls within the exclusive jurisdiction of another administrative body, the Commission may dismiss the complaint prior to investigation under section 26(2)(c), and must dismiss the complaint after investigation under section 29(1)(c) of *The Code*.

APPROVED BY:

"John Burchill"
Chairperson

January 1, 2022
Date