



September 13, 2018

Joëlle Pastora Sala  
Public Interest Law Centre  
200-393 Portage Avenue  
Winnipeg MB R3B 3H6

**BY EMAIL**

Dear Joëlle Pastora Sala:

**Re: Tyson Sylvester v. Government of Manitoba & Winnipeg Regional Health Authority**  
**Our File No. 16 EN 235**

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The Board of Commissioners considered this complaint on September 5, 2018.

The Board reviewed the Complaint, the Reply and the Investigation Report as well as the Complainant's submission and the Respondents' submissions before making their decision.

The Board noted that the Respondents' clarification with respect to certain aspects of the evidence was helpful. It was satisfied that it has jurisdiction to consider this complaint as it alleges discrimination on the basis of disability in the provision of services available to the public. The Board adopted the analysis in the report related to the application of section 11 but noted that in any event, it relied on *Halifax (Regional Municipality) v. Nova Scotia (Human Rights Commission)*, [2012] 1 S.C.R. 364 to conclude that questions of law are more appropriately determined by the Adjudication Panel. The Board noted that it is within its broad authority under section 26 to gather any information that may be relevant to considering the allegation in the complaint, which in this case included interviewing Amelia Hampton with respect to her experience.

The Board decided to accept the investigator's recommendation to request an adjudicator to conduct a public hearing of the complaint. This decision is based on the legal analysis set out in the Investigation Report at pages 3-10 and made pursuant to subsection 29(3)(a) of *The Human Rights Code*.

There is no reconsideration process under *The Code* however a party may apply to the Court of Queen's Bench for a judicial review of the Commission's decision. We encourage any party to seek legal advice if choosing to do so.

Before the Commission proceeds to request an adjudicator and in accordance with subsection 24.1(1) of *The Human Rights Code*, the parties have a limited opportunity to resolve the complaint through mediation.

Please contact George Sarides, Assistant Executive Director, at George.Sarides@gov.mb.ca or (204) 945-5815 within two weeks of today's date, if you are not interested in mediation. If one of the parties is not interested in mediation, we will proceed to refer this matter to adjudication.

Sincerely,



John Burchill  
Vice Chairperson

sd/JB