

Human Rights

Possible Remedies under the BC Code

B.C. Human Rights Clinic

The Objective of Remedies

Human rights legislation in Canada is not intended to be punitive in nature. It is governed by the belief that discriminatory actions and attitudes can be changed and influenced over time by education, discussion and presentation of facts.

As a result, when the facts determine that discrimination has occurred, remedies will focus on stopping the discrimination, preventing it from happening again, and making the victim of discrimination whole.

Section 37 of the BC Human Rights Code outlines the remedies available at the Tribunal.

Types of Remedies

Cease and refrain orders, including orders to:

- stop the discrimination and refrain from future occurrences.

And orders that specify steps to correct the effects of the discrimination and prevent future reoccurrences such as:

- the revision of policy and procedures to ensure they are not discriminatory,
- the implementation of anti-harassment or anti-discrimination policy,
- the implementation of a special program to address past discrimination, and or,
- the education of an entire workforce, or to those found in contravention of the *Code*.

Restorative or Reinstatement orders, including making available the right, opportunity or privilege that was denied such as:

- the removal of negative performance appraisals from personnel files,
- reinstatement to a former job, or a transfer to a new job,

- the promotion to a position that you were entitled to,
- the provision of support in applying for a disability program, or
- the provision of the next available apartment.

Lost Wages and Expense orders may include compensation for losses experienced as a result of the discrimination such as:

- all or part of lost wages and benefits, including sick days,
- severance pay,
- all or part of the expenses incurred as a result of being denied an opportunity or a service,
- the cost of medical expenses incurred as a result of the discrimination including the cost of counseling,
- out-of-pocket expenses related to your complaint,
- all or part of the cost associated with the hearing of your complaint, and or,
- interest on any of these costs.

Injury to Dignity orders:

- where the Tribunal Member considers payment of an amount that is adequate to compensate for injury to dignity, feelings and self-respect.

In BC, while no legislative ceiling limits the amount of an injury to dignity award, the highest Tribunal award in this category is \$75,000.00 (Dec.2013, under appeal).

More Information on Remedies

As each case of discrimination is different, the degree of the contravention will influence the assessment of what an appropriate remedy ought to be. If you're curious about what others have gained, visit the Tribunal's website for past decisions and awards.

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Individuals making claims for lost wages and expenses should be mindful that the Tribunal will look at whether you have made responsible attempts to mitigate (or lessen) your losses. This could include looking at your job search records or your attempts to find alternate housing.

Enforcing Remedies

Settlement Agreements

Where both parties agree to settle a complaint prior to a full hearing, a *Complaint Withdrawal Form* must be filed with the Tribunal. If there is a breach of the terms of a settlement agreement, either party may apply to the BC Supreme Court ("BCSC") to enforce the agreement.

Final Orders

Once the Tribunal has issued an Order, either party can request a certified copy of the final decision from the Tribunal and file it with the BCSC for the purposes of enforcement.

Appeals

Either party may apply to the BCSC for Judicial Review ("JR") of a decision. This must be done within 60 days of the Tribunal Decision. A certified copy of the Tribunal Decision must accompany the request for JR.

Contacts for further information:

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