

File Name: In the Matter of: A complaint under the Human Rights Act by Susan Davis

Date of Decision: November 22, 2007

Area(s): Employment

Characteristic(s): Physical disability, retaliation for contacting the Commission

Complaint: Ms. Susan Davis worked at TLC Animal Shelter, a not for profit agency, incorporated by Preston Andrews and Dorothy Andrews to deal with strays and abused animals. Preston Andrews sits on the board of TLC Animal Shelter and Dorothy Andrews is the Shelter Manager. Ms. Davis was responsible for various job duties at the Shelter, including walking the dogs. Ms. Davis has an eye condition called macular/retinal degeneration. Ms. Davis alleged that the Andrews were aware of her disability and they knew that if she fell, she could go blind or end up with limited vision. Ms. Davis alleged that she was dismissed because the Andrews feared they would be responsible if she slipped on the ice while walking the dogs.

Decision: The Board dismissed Ms. Davis' complaint.

Disability a Factor in Treatment

An employee making the complaint of discrimination against an employer based on a disability must show they had a disability, that their employer created a burden or disadvantage and that their disability was a factor in that treatment.

The Board found that Ms. Davis had a disability but her disability was not a factor in her dismissal. The Board found that Ms. Davis was dismissed from her employment due to poor work performance which was unrelated to her disability. This did not relate to her dog-walking duties but leaving the office a mess, not finishing her work, etc.

Retaliation

Ms. Davis alleged she was retaliated against for making a human rights complaint. She was served with a notice under the Protection of Property Act to stay off the Shelter grounds. The Board found that Andrews and TLC Animal Shelter had valid reasons to seek protection from her (including her use of office space for non-work purposes, disrupting the work of a colleague, and frequently parking her car very close to the workplace) and accepted that they were unaware of her human rights complaint at the time. She also alleged that they retaliated against her by complaining to the RCMP about the theft of donation cans. The Board found that this was a legitimate complaint to the RCMP and was unrelated to her human rights complaint.

Remedy: There was no discrimination and therefore no remedy was ordered.