


NOVA SCOTIA
Human Rights Commission
RESOLUTION PLAN

This resolution agreement ("Resolution Agreement") dated September 19, 2013 is

BETWEEN:

Marjorie Pemberton
("Ms. Pemberton")

- and -

Wal-Mart Canada Corp.
("Walmart")

- and -

THE NOVA SCOTIA HUMAN RIGHTS COMMISSION
("NSHRC")

Background Information

- 1 Ms. Pemberton made a complaint under the *Human Rights Act* against Walmart alleging discrimination regarding the accommodation of her disability.
- 2 Ms. Pemberton and Walmart have resolved the complaint by this Resolution Agreement and agree to the terms below.

Terms of the Agreement

- 3 The Ms. Pemberton and the NSHRC understand and accept that the Walmart does not, by this Resolution Agreement, admit any liability, although they have expressed regret for the events happening. (*The Apology Act* allows expressions of regret without liability attaching to it.)
- 4 Walmart understands and accepts that resolution of the complaint does not take away from the significance of the complaint for Ms. Pemberton and acknowledges the hurt



experienced by Ms. Pemberton. Walmart apologizes to Ms. Pemberton, as confirmed in the letter of apology attached at Schedule A.

- 5 Walmart agrees to provide Ms. Pemberton the attached employment confirmation letter attached at Schedule B to be signed by John Brea, VP Operations – Atlantic Canada.
- 6 Ms. Pemberton will receive from Walmart the sum of \$18,000 as general damages upon the Board of Inquiry concluding this matter. Approval of this Resolution Agreement by the NSHRC is not intended to comment on the characterization of the general damages amount.
- 7 Walmart agrees to provide the employment update attached at Schedule C to its HR team across Canada and to the Walmart store involved in this complaint. Within 20 days of provision, the store manager will read and review the update with the store's assistant managers and confirm with Walmart's in-house legal counsel that this review has been completed.
- 8 Walmart will not participate in any complaint currently before the Workers' Compensation Board of Nova Scotia (WCB) or before the Workers' Compensation Appeals Tribunal (WCAT), or in any complaint that may arise in the future, provided that the future complaint arises in connection with the workplace injury and events giving rise to this complaint. This includes any ongoing proceeding that may be appealed from the WCB to the WCAT. The letter attached at Schedule D confirms Walmart's position in this regard.
- 9 Walmart will provide payment of \$500 to Burchells LLP for legal fees incurred by Ms. Pemberton in this complaint.
- 10 Failure to comply with the terms of this Resolution Agreement will result in the complaint being referred back to the NSHRC for further action.
- 11 Ms. Pemberton releases Walmart as follows: Ms. Pemberton will not make any further claims or take any further legal action against Walmart, or its officers, directors or employees, on the facts arising from this complaint. Ms. Pemberton further agrees there

are no side agreements and that the resolution terms in this Resolution Agreement are the only terms of settlement in this matter.

- 12 The NSHRC may report publicly the fact of resolution and its terms.
- 13 All parties understand and agree that the terms of this Resolution Agreement may be subject to disclosure under the *Freedom of Information and Protection of Privacy Act*, and as otherwise required by law.
- 14 Ms. Pemberton and Walmart understand and agree that neither of them has received advice from staff, officers, mediators or the lawyer of the NSHRC, with respect to the terms of this Resolution Agreement; including but not limited to implications regarding taxation liability under the *Income Tax Act*, employment insurance benefit repayment, or insurance policy repayments. Ms. Pemberton understands that Lisa Teryl and Kelly Buffett are legal counsel for the NSHRC and that they do not represent Ms. Pemberton. Ms. Pemberton acknowledges that she had been advised by Ms. Teryl and Kelly Buffett to seek independent legal advice concerning resolution of the complaint and whether there were any implications in connection with the WCB or WCAT proceedings mentioned in Paragraph 8 above.

Signed by:


Ms. Pemberton

Walmart

19th Sept 2013
Date

Sept 19, 2013
Date


Nova Scotia Human
Rights Commission

19th Sept 2013
Date

By the signature above of its authorized agent under Section 32(1) of the *Human Rights Act*, the NSHRC gives its approval to the terms of this Resolution Agreement.

