

Nova Scotia Human Rights Commission

Annual Report

2014-2015



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Message from the CEO

Dear Minister Whalen,

On behalf of the staff and Commissioners of the Nova Scotia Human Rights Commission (“NSHRC” or the “Commission”), I am pleased to present you with the Commission’s annual report for the 2014-15 fiscal year.

As a leader in the field of human rights protection and promotion in the province, the Commission uses its experience, expertise and influence to help others engage in a process of understanding and mutual respect to prevent and resolve conflict.

The Commission is committed to affirming and promoting human rights across the province’s many diverse communities.

Regards,

Christine Hanson,
Director & CEO

Commissioners & Commission Meetings

The Nova Scotia Human Rights Act (“the Act”) stipulates that the Commission must have no less than three and no more than 12 Commissioners. They make up “the Commission”. As of March 31, 2015, there were 10 Commissioners including the Director and CEO, who is a non-voting member:

- Eunice Harker (Chair)
- Karen Armour
- Dr. Joan Boutilier
- Norbert Comeau
- Darren Desmond
- Chief Andrea Paul
- Dr. Joseph Tharamangalam
- Murray Brown
- Andre Cain
- Tracey Williams (Acting CEO, non-voting member)

The members of the Commission represented regions of the Province including Lunenburg, Wolfville, Trenton, Sydney, Church Point, Windsor and Halifax Regional Municipality.

Commission Meetings

The Commission held regular bimonthly meetings throughout 2014-15. In the fall of 2014, two Commission meetings were held outside of Halifax in Mi'kmaq communities at Pictou Landing and Membertou First Nations. These two, two-day meetings included our regular agenda but additional scheduled activities within each community. These visits helped to enhance Commissioner and senior management’s understanding of the communities, their history and important issues. Tours of local schools, interpretive centres, a health centre and the Boat Harbor site at Pictou Landing gave us all valuable context for the work we do, and will do, in these communities.

Mandate & Vision

Mandate

The Commission has a unique role within Nova Scotia. It is an independent government agency charged with administering the Act a provincial statute created in 1969, with the most recent amendments in 2012. The NSHRC is mandated by the Act to help build inclusive communities and protect human rights in Nova Scotia.

The specific duties of the NSHRC are set out in the Act. The NSHRC has the responsibility of administering and enforcing the provisions of the Act. In addition it develops programs of public information and education in the field of human rights to forward the principle that every person is free and equal in dignity and rights without regard to race, religion, creed, colour, ethnic or national origin, sex, gender, gender identity, gender expression or sexual orientation. Furthermore, it is mandated to conduct research and encourage research by universities and other bodies in the general field of human rights.

Additionally the NSHRC co-operates with and assists any person, organization or body concerned with human rights, inside or outside the province. The NSHRC also works with government by advising and assisting government departments and coordinating their activities as far as these activities concern human rights and advising the government on suggestions, recommendations and requests made by private organizations and individuals. It reports as required by the Minister on the business and activities of the Commission and considers, investigates or administers any matter or activity referred to the Commission by the Governor in Council or the Minister.

Vision

The Commission is committed to actively engage and work with all Nova Scotians and our diverse communities to effectively:

- advance equity and dignity
- foster positive and respectful relations; and
- protect human rights.

The Commission believes in, and is committed to:

- restorative processes
- respectful and productive relationships
- inclusivity
- service excellence
- continuous learning through research, innovation and transparency

2014-15 Strategic Priorities

As described in our Statement of Mandate, the Commission defined our strategic priorities as:

- Identify, Address and Operationalize Priority Human Rights Issues
- Fully Integrate Restorative Approaches into the Commission's Work
- Advance Dialogue and Human Rights Practices
- Strengthen the policy, regulatory and administrative framework in support of the French-language Services Act and consult, plan, develop and deliver French-language services in priority areas.

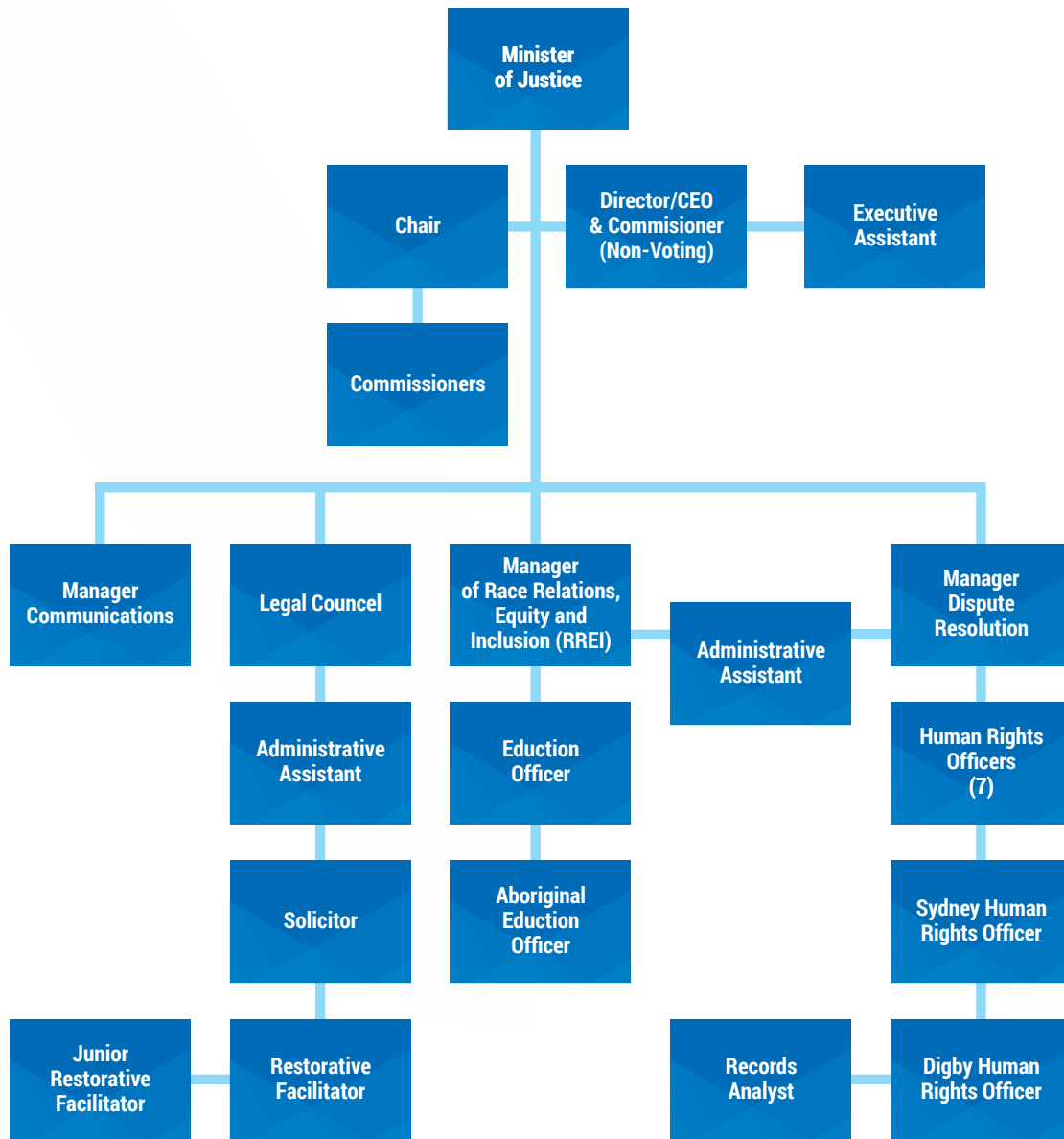
The Commission has embarked on a multi-year engagement strategy concentrating on renewing our relationships within the African Nova Scotian communities and with other protected groups who would also benefit from heightened awareness of human rights within the population at large. In January 2015, the Commission introduced a new Aboriginal Education Officer position. Additionally the Commission will continue to work collaboratively with government and other stakeholders such as Immigrant Services Association of Nova Scotia (ISANS) the Disabled Persons Commission, Collaborative Partnership Network and Partners for Human Rights.

Building upon the successful design and implementation of a relational model of dispute resolution in 2012, the Commission continues to refine its procedures and processes to reflect principles of restorative approaches in every aspect of our work. A restorative approach offers a unique solution to administrative agencies because it acknowledges the relational harm that is at the core of the conflict.

Applying restorative principles to the work we do continues to be an area of focus. This has already resulted in cost savings and faster resolution for the parties involved in dispute resolution, as well as reduced government spending.

Staff participated in restorative facilitator training to enhance their skills around minimizing defensive blaming behaviors of participants in the dispute resolution process.

Organizational Structure



Dispute Resolution

The following statistics reflect key dispute resolution activities related to providing human rights information, and helping to define and resolve human rights disputes. These measures, while important, constitute a snap shot in time and do not evaluate the quality of services provided, complexity of the files involved, and staffing complements at the time. A comprehensive evaluation framework of the restorative approach will be necessary to provide insight into the experiences of parties and the quality of outcomes.

QUARTER	1 ST	2 ND	3 RD	4 TH	FISCAL 14-15
To - From	Apr 1 - Jun 30 2014	Jul 1 - Sept 30 2014	Oct 1 - Dec 31 2014	Jan 1 - Mar 31 2015	Apr 1/14 - Mar 31/15
Inquiries Received	637	717	556	551	2461
Accepted Complaints	25	41	32	19	117
Resolution Conferences Held	14	9	24	11	58
Alternative Investigations Authorized	8	13	8	6	35
Complaints Closed by BOI Decision	5	2	1	7	15
Complaints Closed by 29(4)(a) – Best interests not served	4	1	4	4	13
Complaints Closed by 29(4)(b) – Complaint is without merit	10	11	7	8	36
Complaints Closed by 29(4)(c) – No significant issue	0	0	0	1	1
Complaints Closed by 29(4)(d) – Previous alternate process	0	1	0	2	3
Complaints Closed by 29(4)(e) – Bad faith / improper motives	0	0	0	0	0
Complaints Closed by 29(4)(f) – No reasonable likelihood	7	1	3	9	20
Complaints Closed by 29(4)(g) – Exemption order granted	0	0	0	0	0
Complaints Closed by Settlement Reached	13	13	11	6	43

QUARTER	1 ST	2 ND	3 RD	4 TH	FISCAL 14-15
To - From	Apr 1 - Jun 30 2014	Jul 1 - Sept 30 2014	Oct 1 - Dec 31 2014	Jan 1 - Mar 31 2015	Apr 1/14 - Mar 31/15
Complaints Closed by Non-Jurisdictional	0	0	0	0	0
Total Number Complaints Closed	39	29	26	37	131
Average time to Close Complaint (days)	495	593	558	515	535
Average # days between file assigned to HRO and Resolution Conference date	108	26	103	63	85
Average # of active cases per Human Rights Officer					14

Complaints by Area & Characteristic

Complaint Area	Complaint Characteristic	April 1/14 - March 31/15
Access to Services or Facilities		35
Employment		149
Retaliation		4
	Aboriginal Origin	4
	Age	17
	Association	0
	Ethnic Origin	10
	Family	10
	Gender Identity	2
	Irrational Fear	2
	Marital Status	2
	Mental Disability	52
	National Origin	7
	Physical Disability	75
	Race	30

Complaint Area	Complaint Characteristic	April 1/14 - March 31/15
	Religion	2
	Sex/Gender	10
	Sex/Pregnancy	11
	Sexual Harassment	12
	Sexual Orientation	3
	Source of Income	
Inquiries Received		2480
Avg. Time to prepare Complaint Form (days)		29 (this is the time to finalize – either to refer it to investigation or to close it)
Avg. Time to Address Complaint (days)		291 (time from Intake Received to file closed, down from 436 the previous year)

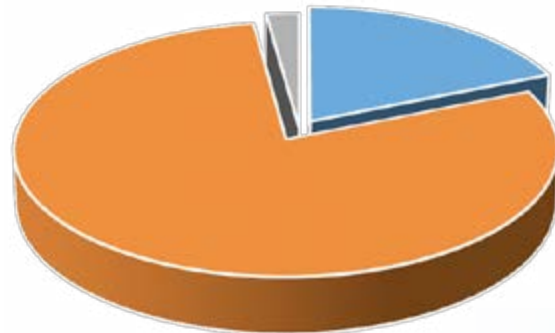
**Note: many complaints involve multiple characteristics.*

Complaints by Characteristic



- Aboriginal Origin
- Age
- Association
- Ethnic Origin
- Family
- Gender Identity
- Irrational Fear
- Marital Status
- Mental Disability
- National Origin
- Physical Disability
- Race
- Religion
- Sex/Gender
- Sex/Pregnancy
- Sexual Harassment
- Sexual Orientation
- Source of Income

Complaints by Area



- Access to Services
- Employment
- Retaliation

Education & Training

The *Nova Scotia Human Rights Act* gives clear direction to the Race Relations, Equity and Inclusion (RREI) or education unit of the Commission to work with government departments, agencies, boards, commissions, NGOs, the community and private sector to develop programs and policies that aid Nova Scotians to work together with respect and dignity, with knowledge of *the Act* and of human rights.

The majority of complaints the Commission receives occur at the workplace, specifically involving people with disabilities (mental or physical). Frequently the remedy to emerge from a Dispute Resolution or Board of Inquiry is for the Respondent to develop or revise their policies with reference to the NS Human Rights Act. We also receive requests for human rights education and policy consultation from businesses that do not have a complaint directed against them. They have identified the risks to their business and what information is required to reduce these risks.

Throughout the year, the education unit provides workshops and education sessions to organizations and businesses of various sizes. Some of these sessions are mandated through board of inquiry decisions, while others are voluntary sessions requested to raise awareness among staff and membership. During the course of the 2014-15 fiscal year, the Commission held 23 education sessions with over 1200 attendees.

This education work has built our knowledge of Nova Scotia businesses, their challenges and the hard working commitment they have for the work they do in this province.

In January 2015 the Commission hired its first Aboriginal Education Officer who will focus on human rights education, collaboration and stakeholder relationship building in Nova Scotia's First Nations communities.

In addition to case management, promotion and protection, Commission staff are actively involved in numerous projects supporting our strategic priorities. These projects and initiatives include but are not limited to contributions to the work of other government departments, agencies, boards and commissions, community-led initiatives and work supporting the application of restorative approaches.

Workshops, Public & Corporate Training

Throughout the year, Commission staff provide workshops and education sessions to organizations and businesses of various sizes. Some of these sessions are mandated through board of inquiry decisions, while others are voluntary sessions requested to raise awareness among staff and membership.

APRIL 1 - MARCH 31, 2015

Number of public education sessions or events	23
Attendees	1294

The Nova Scotia Human Rights Act gives clear direction to the RREI unit to work with Government, departments and agencies of the Government, NGOs and the private sector to develop policies that aid Nova Scotia businesses to work together with respect and knowledge of the Act and of human rights in employment.

During the year to date, there were 16 policy consultations. Some of these businesses and organizations are:

- Cox Palmer
- CMHA, Coldbrook
- Carlton Cards
- NS Early Childhood Development and Education Department's
 - Transgender & Gender Non-Conforming Guidelines for the Minister, Committee
 - Special Education Programs and Services Committee
- Colchester East Hants Health Authority – Mental Health and Addictions Unit
- Saint Mary's University – EMBA Program
- Halifax Metro Transit

This education has built upon our knowledge of Nova Scotia businesses, their challenges and the hard working commitment they have for the work they do in this province.

In January 2015 the Commission hired its first Aboriginal Education Officer who will focus on human rights education, collaboration and stakeholder relationship building in Nova Scotia's First Nations communities.

The Commission also advances human rights education through the planning and promotion of events throughout the year, including:

Community Engagement

With a focus on community engagement the Commission has undertaken new approaches to program planning and project development. In partnership with our stakeholders we have co-designed a new program platform for community-based conversations on systemic discrimination, and advanced work to address consumer racial profiling, a systemic issue among visible minority consumers in Nova Scotia described in our 2013 research report: *Working Together Better*. This and other initiatives intended to better reflect the needs of the communities we serve are described below.

Community Conversations

The Community Conversations project continues to be developed. A significant milestone was achieved on October 28, 2014 when a day-long planning session was held that involved Commission staff, members of the New Leaf consulting team, and individuals who belong to or have significant knowledge about Aboriginal peoples, African Nova Scotians, people with disabilities, immigrants and newcomers, and the LGBTI community. Participants agreed to help the Commission shape its efforts to facilitate community-based conversations about human rights. Current staff activity is focused on the research phase of our project plan. Upcoming milestones include the synthesis of a research literature scan focusing on protected characteristics. Highlights and trends identified through this process will be the basis for further conversations with a small advisory group and help to inform program development.

Consumer Equity

Further to the 2013 research report *Working Better Together: Consumer Racial Profiling in Nova Scotia*, in January 2015 the Commission hosted a panel of industry associations representing the retail and service sectors in Nova Scotia to determine how best to support their education of members on the issue of consumer racial profiling. Participating organizations included the Retail Council of Canada, the Canadian Federation of Independent Businesses, the Restaurant Association of Nova Scotia, the Halifax Chamber of Commerce, and the Colchester and Area Chamber of Commerce.

At an initial meeting, representatives advised Commission staff of programs and initiatives that are currently underway within their respective organizations, and provided insight into gaps in knowledge and ways that the Commission could support education efforts aimed at enhancing consumer equity for all Nova Scotians.

Partners for Human Rights

The Commission continues to work with Partners for Human Rights, a collection of approximately 15 community-based organizations and individuals committed to advancing human rights education and awareness in Nova Scotia. While projects undertaken by Partners are predominantly Halifax-centric, the Commission is currently working with the group to determine how the priorities of Partners align with those of the Commission, and how we can work more strategically together to build on the success of the Dec. 10 Human Rights Day event, the annual presentation of the Human Rights Awards, and other collaborative events and projects to better align with the strategic priorities of the Commission.

Diversity Roundtable

The Commission remains actively engaged at the Diversity Round Table to promote equity and inclusion across government.

Major Events

Through these new and ongoing partnerships, Commission staff help to advance public awareness and foster better engagement with the communities we serve. Part of this work involves planning, promotion and production of major events each year.

7TH Annual Symposium on Inclusive Education and Employment

During this annual symposium, held Dec 2 & 3, 2014, Commission staff delivered and facilitated sessions open to the approximately 400 attendees from across the province in three areas related to our work.

SERVICE ANIMALS

Service animals are not pets. Unfortunately there are many instances of service providers not fully understanding the role and function of service animals. A pro-active role should be undertaken by those who use service animals, working together with the commission and the province to change this perception of service animals as pets. This panel discussion shared the story of collaboration between community, government and the Commission to explore how service dog legislation could address community concerns. *Facilitated by Lianne Chang, Human Rights Officer.*

EMPLOYMENT EQUITY

Employment equity can be a challenging issue for employers. Michelin Tires successfully implemented employment equity in the hiring of First Nation and African Nova Scotians through partnerships based on the federal government's model of collaborating with these communities. This panel discussed how to do it successfully. *Facilitated by Lisa Teryl, Commission Legal Counsel.*

CREATING RESPECTFUL WORKPLACES

Positive workplaces are underpinned by respect and dignity for all employees. They also tend to be more inclusive, and more welcoming of diversity. Facilitator shared the experiences of the NSHRC in the pursuit of a positive workplace. The story he shared included a focus on building strong relationships, working together to create the vision of a positive workplace, and crafting the policy tools to help make the vision a reality. The importance of taking a restorative approach to problem solving was also explored. *Facilitated by Sean Hardy, Human Rights Officer.*

INTERNATIONAL HUMAN RIGHTS DAY: DECEMBER 10TH

Approximately 350 students, administrators, community members, government representatives, Commissioners and staff attended this annual celebration. Held in Cole Harbour, the event included performances by students and others on the theme of Human Rights Education. The annual Nova Scotia Human Rights Awards were also presented to three recipients during this event.

2014 Human Rights Award Recipients



Sgt. Craig Smith of Halifax, and Scott Jones of Scotsburn were recognized on December 10th for their work in human rights education. Each were presented with the Dr. Burley Allan “Rocky” Jones Award, the individual award renamed last year for the late activist and community leader. The Nova Scotia Mass Choir was this year’s recipient in the organization category.

Sgt. Smith is the site supervisor of the Cole Harbour RCMP detachment, as well as the lead on Halifax region’s crime prevention and victim services program. An author, educator, advocate, and leader in the area of human rights, Sgt. Smith has demonstrated a longtime commitment to community development in the African Nova Scotian community through his work.

Mr. Jones’ experience after a violent 2013 attack in New Glasgow that left him paralyzed led him to create the Don’t Be Afraid campaign against homophobia. Focused on promoting dialogue and understanding homophobic behaviour, attitudes and language, Jones’ commitment to curbing fear as a barrier to freedom to be ourselves, has been heard around the world.



The Nova Scotia Mass Choir actively spreads acceptance and racial harmony through its music and composition. The choir often reaches audiences that would not normally be exposed to the genre of black gospel music, thereby raising awareness of some of the cultural contributions of African Nova Scotians.

The day’s program included a community breakfast, keynote address by Delvina Bernard, executive director of the Council on African Canadian Education, as well as performances by district high school choirs and drama groups, spoken word poet Des Adams, vocalists Linda Carvery and Lana Grant, and Project ARC (Action, Responsibility, Choice).

Legal

In an effort to reduce costs and improve access to justice, Board of Inquiry procedures have been streamlined with the new restorative procedures which are now available as an option for parties. Through offering the restorative procedures to parties many of the less complex matters are able to settle without a hearing

The number of Boards of Inquiry doubled in 2013 due to a backlog of complaint investigations that were cleared in a short period of time. So reducing costs of the Boards of Inquiry has pushed the need to explore new ways of creating justice for human rights inquiries. The number of inquiries and their costs are anticipated to resume to normal levels, or less, by 2016 as the legal counsel become more familiar with them. Currently about 30% of the Boards of Inquiry are done restoratively.

APRIL 1, 2014 - MARCH 31, 2015	
Board of Inquiry (BOI) Referrals	17
Ongoing BOI's	38
Ongoing Restorative Boards of Inquiry (RBOI)	11
TBD*	3
Settled BOI's	8
Resolved RBOI's	2
BOI Decisions	7
RBOI Decisions	2
BOI/RBOI Dismissed	2
Judicial Review Ongoing	4
Judicial Review Dismissed	1

**TBD: File has been appointed to a BOI by Commissioners but has not been decided yet if the file will move forward as a restorative or traditional BOI*

Board of Inquiry Decisions 2014-15

The full text of board of inquiry decisions can be found online at humanrights.novascotia.ca as well as by searching the Canadian Legal information Institute website at canlii.org.

Cromwell v. Leon's Furniture Ltd.

- **Decision date:** April 2014
- **Board chair:** Kathryn Raymond
- Finding of discrimination on the basis of race and/or colour
- Leon's ordered to pay Ms. Cromwell \$8,000 in general damage + 18-months lost salary
- Leon's staff to "be trained in cultural competency in the context of human rights."
- *"I feel that justice has been done,"* said Ms. Cromwell. *"The treatment I experienced was dehumanizing and caused me great personal and professional loss. I feel validated and proud of the fact that I spoke up about what I felt was racial discrimination, a problem that remains far too common in workplaces and communities in Nova Scotia."*

Foster v. Cape Breton Regional Municipality

- **Decision date:** May 2014
- **Board chair:** Dennis James
- No finding of discrimination
- Chair found that amendments to Mr. Foster's pension plan were bona fide, or in good faith, since they were within the legislative exceptions available at that time.

Munroe v. IMP Aerospace Components

- **Decision date:** July 2014
- **Board chair:** Nelson Blackburn
- No finding of discrimination
- Chair found IMP had appropriately accommodated Ms. Munroe's pregnancy.

Brothers v. Black Educators Association**

- **Decision date:** August 2014
- **Board chair:** Donald Murray
- Finding of discrimination based on race and/or colour (colourism)
- Black Educators Association ordered to pay Ms. Brothers \$11,000 in general damages & lost income.

- *"It is suggested by colourist thinking that the closer one's skin tone is to that of a pure white, the better access one will have to the jobs and accommodation and opportunities available to actual 'white' people,"* wrote board chair Donald Murray. *"At the same time, colourist thinking suggests that the more visibly black, or more visibly East Indian, or more visibly American Indian, or more visibly Asian, one is, the greater potential there will be for discriminatory distinctions to be made based on 'colour'."*

Graham v. Shear Logic Hairstyling

- **Decision date:** January 2015
- **Board chair:** Kenneth Crawford
Finding of discrimination on the basis of sex (gender), sexual orientation, & sexual harassment
- Respondent ordered to pay Ms. Graham \$11,400.00 in general damages plus interest dating back to the time of the incidents

Jennifer Smith and Javonna Borden v. Bob's Taxi Limited and/or Aleksey Osipenkov

- **Decision date:** March 2015
- **Board chair:** Dennis James
- Finding of discrimination based on race and/or colour
- Bob's Taxi and Mr. Osipenkov ordered to together pay damages of \$7,500 plus interest to Ms. Borden and each of Ms. Smith's two children. Ms. Borden and Ms. Smith will each receive an additional \$2,500 plus interest; Ms. Borden for refusal of service, and Ms. Smith for the impact of harms afflicted on her sons and for lost wages.
- Mr. Osipenkov required to undergo mandatory human rights education.
- Bob's Taxi ordered to develop policies, training and procedures for investigating allegations of discrimination.
- *"There can be no dispute that the language used by Mr. Osipenkov is deplorable. It is language that is debilitating to African-Canadians,"* wrote Mr. James in his decision. *"The demeaning language reveals an underlying disrespect and hostility. It must not be tolerated in anyway and condemned at every opportunity."*

Pearl Kelly v. Nova Scotia Liquor Corporation

- **Decision date:** March 2015
- **Board chair:** Lynn Connors
- Finding of discrimination on the basis of sex and disability
- In her decision, board chair Lynn Connors described evidence of a sexist attitude in a male dominated managerial work environment which included inappropriate comments, nicknames and allusions to preferential treatment due to her sex when in fact the opposite proved to be true.

Raymond Adekayode v. Halifax Regional Municipality Firefighters and International Association of Fire Fighters (IAFF), Local 268**

- **Decision date:** March 2015
- **Board chair:** Donald Murray
- Finding of discrimination on the basis of family status
- HRM and the IAFF ordered to provide Mr. Adekavode with 12 weeks parental leave with top-up to allow quality time with his family.
- *"Imposing disadvantages on biological parents, or denying access by biological parents to benefits because of the method by which they became parents of their children, is an obvious effect of the distinction that has been made by the collective agreement provisions,"* wrote Mr. Murray in his decision. *"In my view, that is a violation of the Human Rights Act."*

John Tanner v. Alumitech Distribution Centre Ltd

- **Decision date:** March 2015
- **Board chair:** Gail Gatchalian
- Finding of discrimination on the basis of disability
- Alumitech ordered to pay Mr. Tanner \$2,500 in general damages

** Restorative Board of Inquiry

Contact Us:

Nova Scotia Human Rights Commission

humanrights.novascotia.ca
HRCinquiries@novascotia.ca

Halifax Office

5657 Spring Garden Road, 3rd Fl., Park Lane Terrace
PO Box 2221, Halifax, NS B3J 3C4

MAILING ADDRESS:

PO Box 2221
Halifax, NS
B3J 3C4

Tel: 902-424-4111
Toll Free in NS: 1-877-269-7699
Fax: 902-424-0596

Sydney office

Provincial Building
360 Prince Street
Sydney, NS B1P 5L1

Tel. 902-563-2142
Fax 902-563-5613

Digby office

Provincial Building
84 Warwick St.

Mailing address:
PO Box 1029
Digby, NS B0V 1A0

Tel. 902-245-4791
Fax 902-245-7103

Facebook: The Nova Scotia Human Rights Commission on Facebook
www.facebook.com/Nova-Scotia-Human-Rights-Commission-164443166946022

Twitter: **@NSHumanRights**