

**Canadian Human  
Rights Tribunal**



**Tribunal canadien  
des droits de la personne**

**Citation:** 2016 CHRT 20  
**Date:** December 22, 2016  
**File No.:** T2139/1316

**Between:**

**Sandra Temple**

**Complainant**

**- and -**

**Canadian Human Rights Commission**

**Commission**

**- and -**

**Horizon International Distributors**

**Respondent**

**Ruling**

**Member:** Susheel Gupta

## **I. Venue for the hearing**

[1] Pursuant to section 7 of the *Canadian Human Rights Act* (“CHRA”), Ms. Sandra Temple claims Horizon International Distributors (“Horizon”) treated her adversely and, ultimately, terminated her employment because of factors related to her sex and disability.

[2] The following ruling determines the venue for the hearing of Ms. Temple’s complaint. Having considered the parties’ submissions on this issue, I have determined that the hearing will be held in Calgary, for the witnesses being called by Ms. Temple, and in Winnipeg for the witnesses being called by Horizon.

## **II. Positions of the parties**

[3] Horizon requests that the hearing of Ms. Temple’s complaint take place in Winnipeg, Manitoba. It submits this is the most practical and cost-effective venue in light of the location of the parties and the anticipated witnesses. Among other considerations, Horizon’s operations and all eight of its anticipated witnesses are located in Winnipeg. Furthermore, seven of Horizon’s eight anticipated witnesses work for the company and, if they are required to travel outside of Winnipeg for the hearing, this will not only be at a significant cost to Horizon but will also disrupt its operations. Those costs are not recoverable by Horizon. As a result, Horizon submits it is unjust and inequitable for the hearing to take place anywhere other than Winnipeg.

[4] Ms. Temple requests that the hearing be held in Calgary, Alberta. For financial and family related reasons, this would be the least disruptive venue for her. Ms. Temple and her mother, for whom she cares, are located near Calgary. Along with Ms. Temple, her husband has also been identified as a witness and is also located near Calgary. Ms. Temple’s other anticipated witness is located in Chilliwack, British Columbia. In the alternative, should I rule that the hearing be held in Winnipeg, Ms. Temple requests that Horizon pay her reasonable travel, accommodation and general out-of-pocket expenses for the duration of the hearing.

[5] The Commission notes that there is an imbalance of power between the Complainant and Respondent. To hold the hearing in Winnipeg would be far from Ms. Temple's home base and could be intimidating for a self-represented litigant. Should the hearing be held in Winnipeg, the Commission agrees with Ms. Temple's request that Horizon pay the reasonable costs for her to attend.

### **III. November 7, 2016 case management conference call**

[6] On a case management conference call held on November 7, 2016, the parties and I discussed Horizon's venue motion and the parties' respective written submissions.

[7] In reply to Ms. Temple's submissions, Horizon emphasized that the complaint has no ties to Calgary. In addition, based on his will-say statement, Horizon anticipates objecting to the testimony of Ms. Temple's husband as corroborating and/or hearsay evidence. Therefore, it argues little weight should be given to where Mr. Temple is located in determining the venue for the hearing.

[8] With respect to Ms. Temple's request for costs, I indicated that the Tribunal does not have the authority to make such an order in the circumstances.

[9] I also proposed a third venue option to the parties for their consideration: a dual-venue hearing. That is, when Ms. Temple is leading her case, the hearing would be held in Calgary; and, when Horizon is leading its case, the hearing would be held in Winnipeg. In either location, the parties could utilize video-conferencing, if they so choose, to attend the hearing so as to avoid travel costs. Any and all arrangements for the hearing, including video-conferencing, would be made by the Tribunal.

[10] Ms. Temple and the Commission were agreeable to this option. However, following further consideration after the conference call, Horizon indicated it was not prepared to consent to the dual-venue hearing option. Counsel and a representative from Horizon would prefer to be present when Ms. Temple provides her evidence in order to properly understand and respond to it. According to Horizon, the details presented in Ms. Temple's Statement of Particulars are difficult to follow and it would be a significant impairment for it not to be physically present when she is presenting her evidence. Although the cost

burden would be lessened by the dual-venue option, it would still require the company to expend some travel and accommodation costs and, therefore, Horizon also submits that this would not be a cost-effective option for them.

#### **IV. Analysis**

[11] Typically, the Tribunal holds hearings in the place where the alleged discrimination occurred or in the place most closely linked to the alleged discriminatory conduct. However, this is not a hard and fast rule and the Tribunal strives to accommodate the parties where it is appropriate to do so (see *Baumbach v. Deer Lake Education Authority*, 2004 CHRT 13 at para. 6). Ultimately, I must ensure the venue for the hearing meets the standards of the *CHRA* that require a fair, informal, expeditious and open hearing process, where each party is given a full and ample opportunity to appear, present evidence and make representations (see ss. 48.9(1), 50(1) and 52(1) of the *CHRA*).

[12] The alleged discrimination did not occur directly in either Winnipeg or Calgary, nor is either location closely linked to the alleged discriminatory conduct. That is because Horizon is a trucking company and Ms. Temple was engaged by Horizon as a truck owner/operator driving loads anywhere from Winnipeg to Vancouver. Most, if not all, of the discrimination alleged by Ms. Temple occurred while she was on the road, away from home and Horizon's offices.

[13] That said, I appreciate the concerns raised by each of the parties. In consideration of those concerns, I believe a dual-venue hearing in both Winnipeg and Calgary best accommodates the needs of Ms. Temple and Horizon.

[14] A dual-venue hearing in this case reduces travel costs for each of the parties. Ms. Temple will not have to travel to Winnipeg and only counsel for Horizon and a representative of the company will travel to Calgary if they choose not to utilize the option of participating by video-conference. Horizon's witnesses will not need to travel to Calgary, which saves the company those costs and addresses its concerns with respect to the disruption of its operations.

[15] The dual-venue hearing also ensures both Ms. Temple and Horizon have a full and ample opportunity to present their respective cases in their preferred location. Testifying in Calgary, and participating in the Winnipeg portion of the hearing via videoconference, facilitates Ms. Temple's ability to attend the hearing and allows her to be in an environment where she feels comfortable and is still able to care for her mother.

[16] For Horizon, although the option of utilizing videoconferencing is there, its preference to be physically present for Ms. Temple's testimony is fully accommodated with the dual-venue hearing. Equally, its preference to lead its case in Winnipeg is also accommodated.

## **V. Ruling**

[17] For the above reasons, the hearing of this matter will be held in Calgary, for the witnesses being called by Ms. Temple, and in Winnipeg for the witnesses being called by Horizon.

[18] I further propose to the parties that other methods of simplifying and expediting the hearing can be utilized to make this dual-venue hearing even more effective for both parties. For example, I encourage the parties to explore the possibility of preparing an agreed statement of facts and to consider the use of affidavits for the examination in chief of their witnesses.

[19] The above methods of simplifying and expediting the hearing, along with the other logistical details of the hearing (including dates, facilities, video-conferencing requirements, telephone line requirements, the submission of books of documents, and the presentation of closing arguments) will be discussed with the parties at a future case management conference call.

*Signed by*

Susheel Gupta  
Tribunal Vice-Chairperson

Ottawa, Ontario  
December 22, 2016