

Gender discrimination case studies admission essay

[Sociology](#), [Gender Studies](#)



UPSE v. Dept. of Health & ors. 2010 PESC 29

The Prince Edward Island Union of Public Sector Employees (UPSE) sought to make a claim of gender discrimination against the Prince Edward Island Department of Health on the basis that they advertised jobs and specifically stated that applicants must be male only. The Board of Arbitration found that this specification was, in context, understandable as the roles were for people who collect urine samples from men in which they are required to stand behind the subjects during the sample being given. The Board ruled that the 'men only' specification was to preserve the dignity of the male sample givers. However, the applicants (the UPSE) seek this case to be examined by a different board on the grounds that the ruling was made based on "impressionistic" evidence rather than "objective" evidence. The facts of the case were reviewed in terms of the procedure which subjects are submitted under to give urine samples and the respondent claims that this procedure designates a necessity for male employees. The grievances were eventually dismissed due to there being a level of ambiguity in the evidence and that the respondents claim was based on a very real necessity.

This is an interesting case because on paper, it is clear that the company are discriminating on the basis of gender by specifying that they require male employees only. However, when put into context, it is clear that the role really does require men rather than women. This is not on the basis that a woman is 'incapable' or carrying out such a role, but rather that the subject may be embarrassed and uncomfortable whilst giving such a sample in front

of a woman. It is clear then, that contextualising a claim is of the utmost importance in cases of gender discrimination.

Bil v. Northland Properties, 2010 BCHRT 234

Karolina Bil filed a complaint against her former employer, Northland Properties Corp. for encouraging her, as a woman, to fulfil roles which would appease male customers greater than if the role was carried out by a male employee. This was largely bar work. Ms Bil also claims that she was forced to dress in a sexually alluring way for her job and that, on one occasion, she was told to let her hair down. Ms Bil also claims that as a result of these factors, she was regularly inappropriately propositioned by male customers. Her employers, The Shark Club (an offshoot of Northland Properties) deny having discriminated.

The Shark Club petitioned for the court to dismiss these claims but provided a vague basis for this dismissal and as such, the case is proceeding to court. If Ms Bil's claims are found to be proven then The Shark Club will be in breach of the code. However, the findings are that the business does only hire female, blonde servers and that it has a strict dress code which encourages the sexualisation of female employees, presumably for the enjoyment of male clientele. If this is found to be true, then this is a strong case of sexual harassment on the basis that the Canadian court rules that sexual harassment is defined, in part, by sex discrimination, and since the male employees are not encouraged to sexualise themselves in the same way, this is an obvious case of such.

If Ms Bil's accusations are true then this is a case of gross gender discrimination and could lead to compensation for other female employees too. Some may argue that the nature of the work leads to an expectation of such behaviour but it is unfair to expect a woman of any employment to 'perform' in such a way.

2011 HRTO 905 Dove v. UHN Rehabilitation

The applicant in this case is complaining about a female employee entering a male restroom whilst he was using it. The applicant was in the restroom for an extended period of time due to feeling sick. Initially, a male employee came in to check on him but was further checked on by the said female employee. The applicant claims that the woman also made an issue of his taking a long time in the restroom. The applicant also directs his complaint to the company for not having 'gender specific washroom checks.'

This case lacks sufficient evidence that the applicant was sexually discriminated against because it lacks proof that he was treated differently on the basis of his gender. Rather, the applicant's issue seems to be more concerned with the lack of sensitivity and respect which was shown towards him, whilst he was being ill. As a result, the case is dismissed.

The interesting situation here is that it is a man claiming to be the victim of gender discrimination whereas the court has ruled that he was treated without regard to his gender. Admittedly, the company are at fault for not having specific gender assigned washroom checks but a woman entering a male restroom is not solid grounds for sexual harassment which led to the

court's ruling to dismiss the case on the basis that the case lacked grounds for reason.

2008-NSHRC-1 A complaint by Linda Lockhart against the Village of New Minas

Linda Lockhart is complaining about the sex discrimination she experienced through her employment with Village of New Minas. This complaint consists of two aspects: the first being that Ms Lockhart claimed she was paid unequally for equal work, and the second being that she claims to have been harassed following her attempts to remedy the pay situation. However, the latter of these was dismissed because the male employee whose pay was comparably higher than Ms Lockhart's, was deemed to have been working for a separate company. This is pertinent to the cause because their pay scheme was different from the one which Ms Lockhart was a part of. The board ruled that it does not have the jurisdiction to discuss such matters. However, the Human Rights Act does deem the board to have the correct jurisdiction to hear Ms Lockhart's complaint, nonetheless.

In the sense that the company argued against the claims, and were found to be correct that Peter Pothier, the male employee whose salary was that used in comparison to Ms Lockhart's, did not officially work for the same company as the applicant. This immediately discounts Ms Lockhart's claims as being quite unfounded and therefore unreliable. It is cases like this which demonstrate that the court does not necessarily immediately rule in the woman's favour for fear of being sexually biased themselves. Ms Lockhart, although perhaps not deliberately making complaint about something that

was proven to be unfounded, clearly did not know the full facts before making her claim.

2009 HRTO 239 Succi v. Ontario

This case saw the applicant request action against an un-named respondent for behaving in a sexually discriminating fashion whilst the applicant was in court on a Family Court matter. The applicant claims that he was discriminated against on the basis of his gender whilst in court and provides the example of his finances being heavily investigated whilst his former spouse's finances were not. The respondent moved for the claim to be dismissed early due to a fundamental lack of evidence and the applicant's lack of substance to his claim. Furthermore, the applicant's claim was further discredited due to his seemingly loose understanding of whether he was making the claim through the correct channels or not; requesting that the court direct him elsewhere if needs be. The court acknowledges that this is not their concern. In this instance, it demonstrates the applicant's lack of understanding with regard to the court's procedure and duty and, in the context of his claim, demonstrates that he may have misconstrued the original court's actions against him.

The decision in this case is to refer the applicant to the applicant's handbook which may better direct him in his quest for justice and the case is, therefore, dismissed. However, this sort of case is demonstrable of a public sense of political correctness gone awry. This man clearly believes he was discriminated against but the lack of evidence does not support him in this claim and it actively works against him – demonstrating his lack of

understanding for the courts and their procedures. In this instance, it would seem that the applicant is using the readily available claim of gender discrimination to aid him in overturning a previous decision which he was perhaps unsatisfied by.