

File number: 37878

IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE COURT OF APPEAL OF MANITOBA)

BETWEEN:

NORTHERN REGIONAL HEALTH AUTHORITY

Applicant

and

MANITOBA HUMAN RIGHTS COMMISSION and LINDA HORROCKS

Respondents

RESPONSE TO APPLICATION FOR LEAVE TO APPEAL
BY THE MANITOBA HUMAN RIGHTS COMMISSION, RESPONDENT
(Pursuant to Sections 40(1), 43(1), 47, 58(1)(a) and 65.1(1) of the
Supreme Court Act, R.S.C. 1985, c. S-26 and Rules 19 and 27 of the *Rules of the
Supreme Court of Canada*)

MANITOBA HUMAN RIGHTS COMMISSION
7th Floor – 175 Hargrave Street
Winnipeg, MB R3C 3R8

Isha Khan
Heather Unger
Tel: 204-945-3016
Fax: 204-945-1292
Isha.Khan@gov.mb.ca

Counsel for the Manitoba Human Rights Commission



January 12, 2018

Richard Bilodeau, Q.C.
Registrar
Supreme Court of Canada
301 Wellington Street
Ottawa, ON K1A 0J1
registry-greffe@scc-csc.ca

Linda Horrocks
266 Whitney Street
Flin Flon, MB R8A 0J3
lindahorrocks55@gmail.com

William Gardner
Robert Watchman
Todd Andres
Barristers and Solicitors
Pitblado LLP
2500-360 Main Street
Winnipeg, MB R3C 4H6
gardner@pitblado.com
watchman@pitblado.com
andres@pitblado.com

Via Email

Dear Sirs and Madam:

**Re: Northern Regional Health Authority v. Manitoba Human Rights
Commission and Linda Horrocks
Supreme Court of Canada File No. 37878**

Further to Rule 27 of the *Rules of the Supreme Court of Canada*, please accept this letter as the Manitoba Human Rights Commission's Response to the Applicant Northern Regional Health Authority's Application for Leave to Appeal in this matter.

The Commission agrees with the Applicant that the issues raised in the Application are of such public importance as to warrant consideration by this Court. The Court's assistance is of particular importance to resolve or reconcile existing ambiguity in the interaction between the statutory human rights and labour relations schemes in Canada, as seen in the Court of Appeal decision in this matter.

The Commission submits that any deference afforded to the labour relations scheme ought not to eclipse the role and purpose of the statutory human rights scheme or the principles on which it is based.

At page 134 of its Application, the Applicant refers to jurisdictional conflict in the context of human rights administration and argues in favour of increased deference to the labour relations scheme. However, it is clear that the extent of this deference as established by this Honourable Court, has been misconstrued.

The legislative intent of the statutory human rights scheme – to allow any person in Canada, unionized or not, to pursue enforcement of their rights under human rights legislation – is increasingly being challenged or confused by a heightened desire to protect collectively bargained rights. Clarification about the fundamental importance of having a human rights scheme accessible to all Canadians and how it shall interact with the labour relations scheme, including how either or both govern workplace disputes, is needed.

The Commission agrees that costs and a stay of the lower court proceedings in this matter is appropriate.

The Commission respectfully requests that leave be granted to appeal the lower court decision in this case.

Yours truly,

Isha Khan
Executive Director and Counsel