

# Ontario Human Rights Tribunal Awards Significant Damages Against Employer For Failure To Investigate Racial Discrimination Claims



The Ontario Human Rights Tribunal dealt with a human rights complaint filed by an employee who alleged that he had been the victim of racial discrimination and that he had been terminated from his employment due to racial discrimination and retaliation for raising a human rights issue (*Morgan v. Herman Miller Canada Inc.*, 2013 HRTO 650).

Mr. Morgan was employed as an installation scheduler by a relatively small company in the furniture design and installation business. Mr. Morgan was the only black man employed by the company, although there were black women employed by the company.

Whenever Mr. Morgan was asked to perform what he regarded as “menial” work, he concluded that he had been given those assignments because he was black. When customers raised issues with respect to quality of work, Mr. Morgan concluded that the criticism by customers was racially motivated.

As a result of his belief that he was the subject of racial discrimination, Mr. Morgan became increasingly unhappy in the workplace. At one point, he talked to the Director of Sales. He told her that he was “very unhappy here”, “has gotten advice from a lawyer”, “is documenting issues”, “is disrespected”, and is “treated like a black slave”. He also told the Director of Sales that management doesn’t care and criticized work team leaders and company executives. He said that “executives don’t speak to him” and that “he is ignored”.

The Director of Sales reported this conversation to the Human Resources Manager. Shortly after that, Mr. Morgan was terminated for spreading “deliberate untruths in the workplace”. He was also informed that the termination was due to the fact that he had “openly expressed...lack of confidence in Herman Miller’s work team leaders and executives.”

After he was terminated, Mr. Morgan filed a human rights complaint, believing he had been discriminated against on the basis of race. As a result of the evidence at the hearing, the Tribunal concluded that Mr. Morgan had not, in fact, been discriminated against on the basis of race.

Unfortunately for the employer, the fact that it had not discriminated against Mr. Morgan did not protect it from significant liabilities. The tribunal concluded that when Mr. Morgan told the Director of Sales that he was being treated as a “black slave”, the company should have concluded that he was raising an issue of alleged discrimination under the *Human Rights Code*. The tribunal concluded that the company should have investigated the allegation made by Mr. Morgan in order to determine whether there had been discriminatory conduct. In addition, the tribunal found that because the company decided to terminate Mr. Morgan without conducting an investigation, it had terminated him in part because he had raised a human rights issue. In the view of the tribunal, his termination was therefore retaliation for having raised a human rights issue in the workplace.

The employer didn’t think that Mr. Morgan had raised a human rights issue and it didn’t think that it had terminated Mr. Morgan because he had raised a human rights issue. Despite this, the tribunal said that the employer should have recognized that Mr. Morgan was trying to raise a human rights issue when he said that he was being treated as a “black slave.”

As a remedy, Mr. Morgan was awarded lost wages for 14 months in the amount of \$55,799.70 plus interest. In addition, he was awarded \$15,000 as damages for injury to dignity. Finally, the employer was ordered to retain a human rights expert to assist it in a review and revision of its human rights policies and to train all of its managers in Ontario with respect to the revised human rights policy.

This decision, once again, illustrates the importance of having a proper policy to deal with allegations of human rights violations in the workplace and the importance of following that policy when a human rights issue is raised.

*The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.*

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