

When Is Enough Enough?! Salanguit v. Parq Vancouver Tells Us When A Complaint Has Been Reasonably Handled



We often hear horror stories about workplace complaints being handled poorly – instances where employers don’t act, investigators miss the mark, and so on and so forth. I’ll now be the bearer of good news and share what the British Columbia Human Rights Tribunal (“Tribunal”) recently found to be reasonable handling of a complaint in *Salanguit v Parq Vancouver and another*.¹ I’ll start by summarizing the facts and conclusion of the decision and then outline the takeaways for employers and investigators.

Rosalyn Salanguit filed a complaint of discrimination on the basis of disability, among other things, against her former employer, Parq Vancouver (“Parq”) and an employee. She had been employed by Parq for over a decade and managed a team. Ms. Salanguit alleged that an employee who reported to her mocked and mimicked her speech impediment. Parq investigated her concerns, but Ms. Salanguit was dissatisfied with their investigative process and the outcome. Parq acknowledged the harm caused by the employee against Ms. Salanguit but argued that it addressed Ms. Salanguit’s concerns in good faith. Parq applied to have the complaint dismissed on the basis that the application would not further the purposes of the BC *Human Rights Code*.²

Ultimately, the Tribunal granted Parq’s application to dismiss Ms. Salanguit’s complaint because, i) Parq made a reasonable settlement offer to her (\$4000) and, ii) they took reasonable and effective steps to remedy the discrimination. Specifically, the Tribunal found that Parq:

1. Took Ms. Salanguit’s discrimination claim seriously
2. Addressed the impact to her, and
3. Took steps to ensure the discrimination wouldn’t happen again.

Let’s take a look at each of the steps that Parq took, so that we know what was considered by the Tribunal to be reasonable and effective.

Parq took the complaint seriously by:

- Confirming with Ms. Salanguit that they were commencing an investigation within a few days of receiving her complaint
- Interviewing Ms. Salanguit, the employee and witnesses over the course of two

months; the investigator substantiated allegations

- Issuing a final written warning to the employee, and requiring that she apologize to Ms. Salanguit by way of letter.

Parq addressed the impact to Ms. Salanguit by:

- Referring her to Parq's Employee Assistance Program, where she was able to access counseling
- Accommodating her medical leave following her complaint
- Committing to ensuring that Ms. Salanguit's return to work arrangements would be tailored to the circumstances
- Demonstrating respect and support to Ms. Salanguit, which included the deferential tone of their communications and settlement offer, where Parq took responsibility for their mistakes.

After the investigation into Ms. Salanguit's complaint, Parq took appropriate steps to ensure the discrimination would not happen again by:

- Sending (and posting) a memo to associates, reminding them of the requirement of respectful conduct, instructing staff to avoid teasing and excluding coworkers, and indicating that any such conduct would be investigated and may lead to discipline
- Reviewing and updating its bullying and harassment policy to re-name it to include "unlawful discrimination"; employees were then required to acknowledge the updated policy and attend in-person training.

The Tribunal noted that the standard for handling a complaint is not perfection, it is "reasonableness," and that Parq dealt with the discrimination allegation pursuant to their Policy, in a direct and attentive manner. The Tribunal noted:

It is important for the Tribunal to encourage employers to conduct themselves in this way...this is especially the case where an employer demonstrates respect and support for its employee, takes responsibility for its mistakes, and tries to do better."

Key Takeaways

Each complaint is different and will be assessed on a case-by-case basis. That said, we can apply the principles from *Salanguit v Parq Vancouver* to each of our own complaints and investigations, from the beginning to the end of our process. First, we can respond quickly upon receipt of a complaint and commence investigations as necessary. Once investigations have begun, we can work to ensure that they are fair, thorough and timely. If allegations are substantiated, organizations can acknowledge the harm and consider how to reduce further incidents in the future; this can be done by implementing corrective action, reviewing and updating policies, training and communications to employees. The Tribunal also emphasized respectful communications throughout the process, including when notifying parties of the investigation, accommodating any leaves, tailoring any return-to-work plan and making any settlement offers. While Parq was not able to satisfy Ms. Salanguit, they tried their best in the circumstances. Employers aren't able to turn back time, but they can take complaints seriously, behave respectfully, acknowledge any harm and strive to do better in the future.

Footnotes

1. 2024 BCHRT 119

2. The purposes set out in s. 3 of the *Code* include fostering an inclusive society in which there are no barriers to full participation, promoting a climate of understanding and mutual respect, preventing

discrimination in contravention of the *Code*, identifying and eliminating persistent patterns of inequality, and providing a means of redress for persons who have experienced discrimination contrary to the *Code*. There is a strong public policy interest in encouraging parties to resolve their disputes in good faith and on a voluntary basis.

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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