



Community Law School (Sarnia-Lambton) Inc.

Legal Literacy Activity Form

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Legal Literacy Activity Title: The Canadian Human Rights Act: The Duty to Accommodate in Employment

Date Developed: January 9, 2020

Learner Name:

Date Started:

Date Completed:

Legal Literacy Activity Description: The learner will read the attached Study Guide Sheet from the Community Law School, and view a short video about workplace accommodation, in order to answer case study questions about what types of workplace accommodation an employee might have a right to expect in a workplace setting to comply with the Canadian Human Rights Act.

Materials Required:

- Pen or pencil and paper
- Access to a computer and the internet

Instructor preparation: Read over the learner instructions with the learner and check for understanding.

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Legal Literacy Activities:

Task #1. Using an internet search guide (such as Google) search for “Canada Duty to Accommodate Employment Video, and find and watch the You Tube video titled “Accommodation – It’s a Right” uploaded by PSAC-AFPC.

Task #2. Please review the Study Guide “Introduction to the Canadian Human Rights Act: Duty to Accommodate in Employment” attached to this Activity.

Task #3. Please consider the following Case Study and prepare written answers to the questions that follow.

First Federal Bank

Joe has muscular dystrophy (MD) and now uses an electric wheelchair for mobility as the MD has made him more and more unsteady on his feet. He has worked as a bank loan officer for over 20 years, at the First Federal Bank in Toronto. He recently moved to Sarnia, Ontario to be closer to his aging mother. He applied for an open loan officer position at the Sarnia branch of First Federal Bank and was invited to an in-person interview. Although his wheelchair fit through the front door, once he was inside he could not see above any of the tellers’ counters or access the work areas behind the counters, and could not fit through any of the office or cubicle doors. The Bank manager told Joe during his interview (conducted in the Bank lobby) that he is the most qualified candidate that they have for the job, but that they can’t hire him because of the difficulty with his wheelchair.

a) Is the First Federal Bank a service or industry that is covered by the Canadian Human Rights Act?

b) Is the Bank discriminating against Joe by refusing to hire him?

c) What kind of accommodations could the Bank make so that Joe can be able to work in the Sarnia branch of the Bank?

Task #4. Please consider the following Case Study and prepare written answers to the questions that follow.

Ride the Rail

Although she argued that he was only defending herself from an armed attacker, Susan was convicted of criminal assault in 2014. In 2020 she was issued a full pardon, which officially forgives her crime and removes it from her active criminal record. Finally free from the burden of her criminal record, Susan began to look for full-time employment. She always loved trains and train travel, so she applied for a position as a conductor on the Canadian Star Line. She passed the written test and interview with flying colours, and to her great joy was hired for the job. Susan had been working for about 13 months, during which time she received praise from her supervisors and two merit-based raises in pay. She was stunned when her supervisor called her in one day and told her that she was no longer needed and was being terminated from her position. When she asked why she was being forced to leave the job she loved, the supervisor told her “We got a tip from a passenger who said he knew you ‘from way back’. We cannot allow criminals to work on this train.”

a) Is the Canada Star Line a service or industry that is covered by the Canadian Human Rights Act?

b) Is the Star Line discriminating against Susan by firing her?

c) What could the Star Line do to correct its discrimination against Susan?

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Answers for the Legal Literacy Activities:

Task #1

The learner will locate and view the PSAC-AFPC video.

Task #2

The learner will review the attached Study Guide.

Task #3 **First Federal Bank**

Joe has muscular dystrophy (MD) and now uses an electric wheelchair for mobility as the MD has made him more and more unsteady on his feet. He has worked as a bank loan officer for over 20 years, at the First Federal Bank in Toronto. He recently moved to Sarnia, Ontario to be closer to his aging mother. He applied for an open loan officer position at the Sarnia branch of First Federal Bank and was invited to an in-person interview. Although his wheelchair fit through the front door, once he was inside he could not see above any of the tellers' counters or access the work areas behind the counters, and could not fit through any of the office or cubicle doors. The Bank manager told Joe during his interview (conducted in the Bank lobby) that he is the most qualified candidate that they have for the job, but that they can't hire him because of the difficulty with his wheelchair.

a) Is the First Federal Bank a service or industry that is covered by the Canadian Human Rights Act?

Yes. Chartered Banks are a federally regulated industry and therefore subject to the Canadian Human Rights Act.

b) Is the Bank discriminating against Joe by refusing to hire him?

Yes, the Bank is discriminating against Joe. Other applicants who are not using wheelchairs are able to access, conduct business, and fulfill their employment obligations at the counter and/or in an office or cubicle. Because the counters are too high and the office and cubicle openings are too narrow, Joe is being denied employment and job opportunities that are offered and available to other Bank job applicants and to employees who do not use a wheelchair.

c) What kind of accommodations could the Bank make so that Joe can be able to work in the Sarnia branch of the Bank?

The Bank can rearrange furniture, reconfigure the lobby and other workspaces, and purchase alternative furnishings and fixtures that accommodate Joe's wheelchair and its spacing and maneuvering needs. The size of the Bank as a business entity makes it highly unlikely that the changes necessary to accommodate Joe and his wheelchair would create any undue hardship on the Bank, or adversely impact its profitability or continued viability.

Task #4 Ride the Rail

Although she argued that he was only defending herself from an armed attacker, Susan was convicted of criminal assault in 2014. In 2020 she was issued a full pardon, which officially forgives her crime and removes it from her active criminal record. Finally free from the burden of her criminal record, Susan began to look for full-time employment. She always loved trains and train travel, so she applied for a position as a conductor on the Canadian Star Line. She passed the written test and interview with flying colours, and to her great joy was hired for the job. Susan had been working for about 13 months, during which time she received praise from her supervisors and two merit-based raises in pay. She was stunned when her supervisor called her in one day and told her that she was no longer needed and was being terminated from her position. When she asked why she was being forced to leave the job she loved, the supervisor told her "We got a tip from a passenger who said he knew you 'from way back'. We cannot allow criminals to work on this train."

a) Is the Canada Star Line a service or industry that is covered by the Canadian Human Rights Act?

Yes. Railways that travel between provinces are a federally regulated industry and therefore subject to the Canadian Human Rights Act.

b) Is the Star Line discriminating against Susan by firing her?

Yes, Star Line is discriminating against Susan. The *Canadian Human Rights Act* prohibits discrimination against persons who have been pardoned for prior criminal convictions.

c) What could the Star Line do to correct its discrimination against Susan?

The Star Line could reinstate Susan to her previous job. If Susan no longer feels comfortable working for the Star Line under these circumstances, the railroad could pay monetary compensation for Susan's lost wages and other financial losses or damages that stem from her being illegally fired, as well as provide references and other assistance to help her find another suitable and desirable job.

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These Legal Literacy Activities: were successfully completed ___ need to be tried again ___

Learner Comments

Instructor (print and signature)

Learner Signature



COMMUNITY LAW SCHOOL (SARNIA-LAMBTON) INC.

STUDY GUIDE SHEET

Introduction to the Canadian Human Rights Act: Accommodation in Employment

1. What service providers and employers are covered by the Canadian Human Rights Act?

The Canadian Human Rights Act covers matters and activities that are regulated and controlled by the federal (not provincial) government and laws. These include:

- Federal Departments (e.g., Passports, Canada Pension Plan, Immigration), Agencies, and Crown Corporations—including the Canadian Armed Forces and the RCMP;
- Chartered banks;
- Airlines;
- TV and radio stations;
- Interprovincial telephone and communication companies;
- Buses and railways that travel between provinces;
- Interprovincial or international transportation of goods;
- First Nations governments and some First Nations organizations; and
- Other federally regulated industries such as uranium mining and grain handling.

2. What is the duty to accommodate?

Discrimination means treating people differently, negatively, or adversely (whether intentionally or not) because of the personal characteristics of the individual or the group (e.g., race, age, gender, religion, sexual orientation, ethnicity, etc). Discrimination has the effect of imposing burdens or obligations, or of withholding or limiting access to opportunities, benefits, and advantages, that are readily available to others who do not share the characteristic that prompts the discrimination.

3. What are the Prohibited Grounds of Discrimination under the Canadian Human Rights Act?

The Act identifies the **personal characteristics**, or **grounds**, upon which discrimination is prohibited. The discriminatory action must fall under (or be directly related to) one of these grounds in order for there to be a valid human rights claim under the Act.

These grounds of discrimination are:

- race;
- national or ethnic origin;
- colour;
- religion;
- age;
- sex (gender);
- sexual orientation;
- gender identity or expression;
- marital status;
- family status;
- physical or mental disability (including dependence on alcohol or drugs);
- genetic characteristics; and
- pardoned criminal convictions.