

**Toope v. Eastern Health**  
(File # 11-6060)

**IN THE MATTER OF a complaint  
pursuant to Section 11 of the  
*Human Rights Act, 2010*  
S.N.L. 2010 c. H-13.1**

**BETWEEN**

**Terry Toope (on Behalf of Ronald Simms)**

**COMPLAINANT**

**AND**

**Eastern Health,  
Vicki Kaminski,  
Elizabeth Lundrigan,  
Nadine Beresford,  
Diane Penney,  
Nicholas Nash**

**RESPONDENTS**

**DECISION**

**Adjudicator**

Adjudicator: C. Brodie Gallant

**Dates**

Hearing Date: April 12, 2018

Decision Date: May 8, 2018

**Complaint File:**

File: # 11-6060

**Appearances**

On Behalf of the Commission: Ms. Carey Majid

On Behalf of the Complainant: (no appearance)

On Behalf of the Respondents: Ms. Jane Bussey

## Decision

[1] On July 11, 2011, Terry Toope, on behalf of Ronald Simms, filed a complaint with the Human Rights Commission. His complaint alleged that the Respondents discriminated against Ronald Simms on the basis of his disability contrary to section 11 of the *Human Rights Act, 2010*, SNL 2010 c H-13.1 (the "Act").

[2] On November 13, 2015 the Complaint was assigned to an adjudicator for determination. In the period which followed, the Parties participated in teleconferences with the adjudicator in an effort to narrow issues and move the matter forward to a hearing. The adjudicator was also informed that the parties had ongoing discussions toward resolution without the adjudicator present. The matter was not resolved.

[3] Ultimately on February 6, 2018 at the request of the commission, a hearing date was set for April 12, 2018 – 10:00AM.

[4] On April 12, 2018 the hearing was convened at the appointed time.

[5] The Complainant did not attend and he was not represented at the hearing. I was advised by counsel for the Commission that correspondence sent to the Complainant in the months leading up to the hearing went unanswered. Ultimately a letter was sent to the Complainant on February 6, 2018 by registered mail. The letter provided notice of the time and place for the hearing, and cautioned the Complainant that failure to attend could result in dismissal of his complaint. The letter was picked up by the Complainant on February 8, 2018. The February 6, 2018 letter, along with documentation of its receipt by the Complainant was tendered into evidence as a consent exhibit which was marked "HRC #1".

[6] During the hearing I noted for the record that just prior to convening the hearing I had asked the parties present to wait while I attempted to contact the Complainant at the telephone number associated with his complaint. There had been no answer when I called.

[7] The Commission invited me to dismiss the complaint pursuant to section 39(1)(a) of the *Act*. Section 31(1)(a) of the *Act* states:

**39.** (1) A board of inquiry

(a) shall, where it finds that a complaint is not justified, order that the complaint be dismissed;

[8] No evidence was called in support of the complaint. In the absence of any evidence presented in support of the complaint, I find that the complaint is not justified and so it shall be dismissed. I do this noting that the Complainant did not appear at the hearing notwithstanding that he had received notice of the hearing.

[9] The formal order is attached to this decision.

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C. Brodie Gallant  
Adjudicator