

Calgary Bar Cannot Discriminate on the Basis of Race or Religion

By Linda McKay-Panos

Cases Considered:

[Jaspal Randhawa v. Tequila Bar & Grill Ltd. o/a Tequila Nightclub \(March 17, 2008 Alta. H.R.P. Diane Colley-Urquhart, Panel Chair\)](#)

The Alberta Human Rights Panel (“Panel”) recently joined human rights commissions in other provinces in addressing an all too common complaint—racial discrimination by a popular restaurant or bar. Mr. Jaspal Randhawa complained when he was denied entry into Calgary’s Tequila Bar and Grill Ltd. (“Tequila”) on July 9, 2004. Tequila’s manager, Mr. Harry Dimitriadis, was the respondent. Mr. Randhawa complained that he was denied goods, services and accommodation on the grounds of ancestry, race and religious beliefs, contrary to s.4 of the *Human Rights, Citizenship and Multiculturalism Act* (“HRCMA”), R.S.A. 2000, c. H-14.

This complaint and other allegations of similar discrimination received a great deal of attention in Calgary, and the subsequent media coverage earned the local Global TV station an award for its coverage of the issue. The TV station had surreptitiously filmed a similar incident at a local bar. Because the videotaped TV story was posted to YouTube, the matter received attention around the world.

In this case, Mr. Randhawa, his friend Arvinder Ghag and three other friends were in Calgary from British Columbia to attend the wedding of a friend. The five friends were denied entry at the Tantra Nightclub. Mr. Randhawa was the only person wearing a turban. They decided to split into two groups and try to gain entry at the Tequila Nightclub. Because of their experience at the Tantra, Mr. Randhawa asked the doorman if they would be able to get in. The doorman advised him that the bar did not have any policy against persons in turbans, but ten minutes later, another doorman approached the complainant and said, “I thought I would save you some time and let you know that you won’t be able to come into the club tonight....I feel bad, but I could lose my job if I let you in—it’s Cowtown and Stampede weekend. The owners want to maintain a certain image and don’t want clients to say there are a lot of ‘brown’ people inside.” The doorman also noted that the complainants would be asked for 3 pieces of government identification and then 5 and then 10 until the person could not produce what was required to get into the establishment.

The respondent bar manager answered the complaint by saying that he did not condone such behaviour and that there were people of many different races in the bar at all times. He wondered why Mr. Randhawa did not speak to a manager, who would not agree with this behaviour and would have dealt with the staff member “swiftly and severely.”

Section 4 of *HRCMA* states:

4. No person shall

(a) deny to any person or class of persons any goods, services, accommodation or facilities that are customarily available to the public, or

(b) discriminate against any person or class of persons with respect to any goods, services, accommodation or facilities that are customarily available to the public,

because of the race, religious beliefs, colour, gender, physical disability, mental disability, ancestry, place of origin, marital status, source of income or family status of that person or class of persons or of any other person or class of persons.

At the Panel hearing, the bar manager could not produce any witnesses who could contest the evidence provided by both Mr. Randhawa and his friend Mr. Ghag. Further, there was no evidence to indicate that the respondent bar manager took the complaint seriously and fully investigated the complaint. There was also evidence that the management used surveillance monitoring for the purpose of identifying individuals based on their appearance to determine if they wanted to deny access to the premises. The Panel found that the management used the surveillance and then sent a message to the doorman to pull the complainant out of the lineup based on his appearance, so it would not have done any good for Mr. Randhawa to ask to speak to the manager. The Panel was also disturbed by the practice of asking for multiple pieces of identification in order to legitimize and condone the practice of not allowing persons of colour into the establishment. The Panel noted that just because individuals of different races may be admitted to the bar at other times does not mean that there was not discrimination against the complainant at the relevant time.

Based on the evidence, the Panel found that the complainant was subjected to discrimination in a manner contrary to the *HRCMA* on the basis of ancestry or place of origin, race or colour and religious beliefs in providing goods, services and accommodation to the complainant.

In deciding upon the appropriate remedy, the Panel reviewed the awards given for humiliation and insult in a number of other cases involving the denial of public services to persons based on ancestry, race or religion:

- *Rossetti and Lanigan v. Montgomery, Lawless and Leclaire* (Ontario Board of Inquiry 1987): \$1500 awarded to complainants for being denied service in a bar because they were of aboriginal ancestry.
- *Huang v. 1233065 Ontario Inc. No. 2* (2006): \$10,000 awarded to the complainant for injury to dignity after the organization cancelled her membership in a non-profit association for seniors of Chinese ancestry, due to her practice of Falun Gong.
- *Gilliard v. Pictou (Town) (No.2)* (2005) (Nova Scotia Board of Inquiry): \$6000 in general damages awarded for not allowing a religious presentation in a public auditorium.
- *Commission des droits de la personne et des droits de la jeunesse c. 2314 Quebec Inc. (f.a.s. Resto-bar Les Surf)* (2007): each plaintiff who was denied entry to the bar because they were black, was awarded \$5000 in morale damages plus \$3000 in punitive damages.
- *Commission des droits de la personne et des droits de la jeunesse c Blais* (2007): each plaintiff denied entry because they were aboriginal should be paid \$3000 in morale damages plus \$1000 in punitive damages.

In the end, the Panel awarded Mr. Randhawa \$5,000 for pain, suffering, loss of self-respect and dignity. The bar was ordered to implement a policy on racial discrimination in the workplace within two months of the date of the decision, and to ensure that the policy is communicated to all current managers and staff, and included as part of new employee orientation. The respondent was ordered to participate in an education seminar conducted by the Commission and to issue a formal apology to the complainant.

As an aside, the Calgary Herald reported that Mr. Randhawa dropped his human rights complaint against the Tantra when its owner, Paul Vickers, settled with him (S. Meyers, “More Bar Discrimination Claims Emerge” *Calgary Herald* 21 March 2008).