

**THE NORTHWEST TERRITORIES HUMAN  
RIGHTS ADJUDICATION PANEL**

**IN THE MATTER OF The Northwest Territories  
*Human Rights Act*, R.S.N.W.T, 1988. as amended,**

**BETWEEN:**

**Scott Robertson and Richard Anthony**

**Complainants**

**-and-**

**William Goertzen**

**Respondent**

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**Reasons for Decision**

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**Before: James R. Posynick, Adjudicator**

**Date of Hearing: June 21, 2010**

**Place of Hearing: Yellowknife, NT**

**Appearing:**

**Scott Robertson, Complainant, Self-represented  
Richard Anthony, Complainant, Self-represented  
William Goertzen, Respondent, Self-represented**

**Sections of the *Human Rights Act* considered:  
Sections 5(1), 6, 12(1) and (2), 62(1),(3).**

**Other Legislation considered:  
*The Canadian Charter of Rights and Freedoms*  
*The Canadian Bill of Rights***

## **REASONS FOR DECISION**

### **Introduction**

Mr. Anthony and Mr. Robertson each filed human rights complaints in June of 2009 alleging that Mr. Goertzen discriminated against them by denying them a tenancy in a residence owned by Mr. Goertzen, because of their sexual orientation. The hearing of each complaint arose out of the same facts and circumstances and were heard together.

The Complainants gave evidence under affirmation at the hearing. Mr. Anthony's sister, Amanda, and Mr. Goertzen gave evidence under oath. The evidence led by the Complainants was not disputed by the Respondent.

Mr. Goertzen confirmed under oath the sexual orientation of the Complainants was the reason he denied tenancy to them. He stated his religious beliefs compelled him to do so and he was therefore reasonably justified in his actions.

For the reasons set out below, I have decided Mr. Goertzen's actions were discriminatory within the meaning of the Northwest Territories *Human Rights Act* and that his reasons for doing so do not amount to a reasonable justification.

### **Issues for Decision**

- (1) Have the Complainants established they were discriminated against on the basis of their sexual orientation by being denied the right to occupy an available, self contained dwelling owned by Mr. Mr. Goertzen?
- (2) If so, has Mr. Goertzen established a reasonable justification for his actions?

### **Relevant Findings of Fact**

The Complainants are university graduates who have been in a same-sex relationship for several years. In the spring of 2009 they were in need of new living accommodation. They had sold their existing home and had to give-up possession by June 15<sup>th</sup>, 2009. At the time, the Yellowknife vacancy rate for rental premises was very small so they promptly place an advertisement in a local news-advertiser seeking new living accommodation.

Mr. Goertzen is a high school graduate and enjoys long-term employment as a journeyman lineman. He is a member of the Central Arctic Baptist Church. He responded to the Complainant's advertisement and on or about May 7<sup>th</sup>, 2009, he entered into a written residential tenancy agreement (the "Lease") with them to rent the main level of his house (the "rental premises"). At the same time, as further agreed between the parties, Mr. Goertzen received a cheque in the sum of \$1125.00 for two weeks rent from Mr. Robertson. The move-in date was set for June 13<sup>th</sup>, 2009.

Mr. Anthony's sister Amanda lives in the basement of the rental premises. On or about May 20<sup>th</sup>, 2009, she had a conversation with Mr. Goertzen about the relationship between the Complainants. When Mr. Goertzen learned they were in "a same-sex partnership" he was shocked. He felt that the Complainants should have told him of this relationship. He said he was fearful of what might happen to him because of his relationship with "his Lord". He said to Amanda that having the Complainants in the same house as Amanda's son was inappropriate. Mr. Goertzen told Amanda that there was no Lease between he and the Complainants because they did not have a copy of it and he would "rip it up".

Two days later, Amanda told her brother about her conversation with the Respondent. They felt once Mr. Goertzen realized the legal implications of denying them their tenancy, he would change his mind. They anticipated Mr. Goertzen would at least talk to them before he took any action.

On May 22<sup>nd</sup>, 2009, without notice to the Complainants, Mr. Goertzen took out his own advertisement offering the rental premises to others. The Complainants were in Edmonton shopping for new furniture at the time.

Mr. Goertzen had no intention of honoring his agreement with the Complainants because he believes that same-sex relationships are "unnatural and against nature" and "the Bible warns against being associated with such wickedness and there would be undue hardship upon him" if he would let them live there. He felt if he allowed the Complainants to live in his house, God would punish him. Besides, the rental premises was a source of income for him and he did not want to leave it empty.

Mr. Robertson flew back from Edmonton to talk with Mr. Goertzen. He confronted the Respondent on the street outside the rental premises. The parties had a strained conversation. Mr. Robertson emphasized Mr. Goertzen's legal obligations to him and his partner in the circumstances. Mr. Goertzen stated that he could not rent the house to the Complainants because of his religious beliefs. When Mr. Robertson asked for a copy of the signed Lease, Mr. Goertzen refused. He had already thrown the lease in the garbage.

At the conclusion of the conversation, Mr. Robertson entered Amanda's basement suite to have a conversation with her. Mr. Goertzen showed up a few moments later and when Mr. Robertson answered Amanda's door, the Respondent said if the Complainants took steps to enforce their legal rights, he would not renew Amanda's lease when it was set to expire just two months later.

Later Mr. Goertzen told Amanda he did not mean what he said about her lease renewal. Despite his assurances, the situation became very stressful for Amanda. She and her brother and Mr. Robertson had arguments. Their relationship remains strained to this day. Her evidence was that any reluctance on her part to have the Complainants live upstairs arose from her strained relationship with Mr. Anthony and not from any concern about her son or Mr. Anthony's relationship with him.

To add to her stress, Mr. Goertzen accused her of helping Mr. Anthony serve documents on her. She felt her tenancy was in jeopardy for a long time although she remains Mr. Goertzen's tenant.

The Complainants' relationship with each other was also strained. Mr. Robertson took it upon himself to deal with the situation to protect Mr. Anthony. They became distant as Mr. Robertson tried to balance their relationship, his employment and the burden of dealing with these and residential tenancy proceedings. Both of their personal sense of security in the community was shaken by their experience with Mr. Goertzen. They had to be careful with their finances – being out the \$1125 deposit given to Mr. Goertzen - should they need money for a second deposit on another place.

Mr. Goertzen entered into a second tenancy agreement with other tenants and they moved-in to the rental premises some time before June 13<sup>th</sup>, 2009.

The Complainants were able to rely on the good will of friends to help them (and their two dogs) with interim living accommodation. They were able to locate another suitable rental premises and moved-in there on June 13<sup>th</sup>.

On July 20<sup>th</sup>, 2009 the Complainants were successful with an application for breach of a residential tenancy agreement before the Northwest Territories Residential Tenancies Officer. They obtained compensation for the difference in rent between Mr. Goertzen's premises and the subsequent premises they rented. They received compensation for the use of certain household items and they had their two week deposit of \$1125.00 ordered returned.

### **The Legislation Considered**

#### The Human Rights Act:

Section 1. Discrimination includes the conduct described in subsections...12(1).

Section 5. (1) For the purposes of this Act, the prohibited grounds of discrimination are race, colour, ancestry, nationality, ethnic origin, place of origin, creed, religion, age, disability, sex, sexual orientation, gender identity, marital status, family status, family affiliation, political belief, political association, social condition and a conviction for which a pardon has been granted.

Section 12. (1) No person shall, on the basis of a prohibited ground of discrimination and without a *bona fide* and reasonable justification,  
(a) deny to any individual or class of individuals the right to occupy as a tenant any commercial unit or self-contained dwelling unit that is advertised or otherwise in any way represented as a being available for occupancy by a tenant; or  
(b) discriminate against any individual or class of individuals with respect to any term or condition of occupancy of any commercial unit or self-contained dwelling unit.

(2) In order for the justification referred to in subsection (1) to be considered *bona fide* and reasonable, it must be established that accommodation of the needs of an individual would impose undue hardship on a person who would have to accommodate those needs.

Section 62. (1) If the adjudicator finds, under subsection (1), that a complaint has merit in whole or in part, the adjudicator

- (a) may order a party against whom the find was made to do one or more of the following:
  - (i) to cease the contravention complained of,
  - (ii) to refrain in the future from committing the same or any similar contravention,
  - (iii) to make available to any party dealt with contrary to this Act the rights, opportunities or privileges that the person was denied contrary to this Act,
  - (iv) to compensate any party dealt with contrary to this Act for all or any part of any wages or income lost or expenses incurred by reason of the contravention of this Act,
  - (v) to pay to any party dealt with contrary to this Act an amount that the adjudicator considers appropriate to compensate that party for injury to dignity, feelings and self respect,
  - (vi) to reinstate in employment any party dealt with contrary to this Act,
  - (vii) where the adjudicator finds that the party acted willfully or maliciously, or has repeatedly contravened this Act, to pay to any party dealt with contrary to this Act an amount not exceeding \$10,000 as exemplary or punitive damages,
  - (viii) to take any other action that the adjudicator considers proper to place any party dealt with contrary to this Act in the position the person would have been in but for the contravention of this Act; and
- (b) may make a declaratory order that the conduct complained of, or similar conduct, is discrimination contrary to this Act.

### The Canadian Bill of Rights

(preamble) The Parliament of Canada, Affirming that the Canadian Nation is founded upon principles that acknowledge the supremacy of God, the dignity and worth of the human person and the position of the family in a society of free men and free institutions.  
1. It is hereby recognized and declared that in Canada there have existed and shall continue to exist without discrimination by reason of race, national origin, colour, religion or sex, the following human rights and fundamental freedoms, namely...(c) freedom of religion...

### The Canadian Charter of Rights and Freedoms

(preamble) Whereas Canada is founded upon principles that recognize the supremacy of God and the rule of law.  
2. Everyone has the following fundamental freedoms: (a) freedom of conscience and religion...

### **Positions of the Parties on Discrimination**

As noted above, the relevant facts are not in dispute. The parties agree Mr. Goertzen refused to follow-through on his Lease obligations because of the sexual orientation of the Complainants. The Complainants have given myself and Mr. Goertzen copies of

several cases that support the view that denying tenancy on the basis of sexual orientation constitutes a breach of human rights law.

The parties also agree Mr. Goertzen's reason for doing so arose because of his religious belief that God will punish him in life and at death if he allowed the Complainants to live in the rental premises.

Where the parties disagree is on the notion that Mr. Goertzen's discriminatory actions are justifiable.

Mr. Goertzen stated he feared that God would "put hardship on him" in life and that he fears "[God's] judgment at death". Mr. Goertzen asked me to decide, in the circumstances of this case, both of those potential results amount to "undue hardship" for him and for that reason, his actions were reasonably justified.

Mr. Goertzen directed me to certain excerpts from the *King James Bible* (the "Bible") and from the *Way of Life Encyclopedia of the Bible & Christianity*, 4<sup>th</sup> ed. (the "Encyclopedia") which suggest that God is strongly against same-sex relationships.

Mr. Goertzen also referred me to the *Canadian Bill of Rights* and the *Canadian Charter of Rights and Freedoms*, specifically to where they refer to the "supremacy of God" and to "freedom of religion". He argued that "God's word and the supremacy thereof" along with his constitutionally protected right to freedom of religion trumped the Complainants' right not to be discriminated against on the basis of their sexual orientation. The Respondent referred me to a case that, he said, supports this view, namely: *Quebec (Commission des droits de la personne et des droits de la jeunesse) c. Martin*, (1997) 33 C.H.R.R. D/487 (Trib. Que.) (hereinafter "*Martin*").

The Complainants, on the other hand, say Mr. Goertzen is entitled to his religious beliefs but he is not entitled to apply those beliefs in disregard of their right to enjoy access to a tenancy just like all other residents of the Northwest Territories, regardless of their sexual orientation.

## **Analysis**

**Issue 1.** (1) Have the Complainants established that they were discriminated against on the basis of their sexual orientation by being denied the right to occupy an available, self contained dwelling owned by Mr. Mr. Goertzen?

Section 1. of the *Act* says the circumstances set out in Section 12(1) of the *Act* amount to discrimination.

The evidence in this case is undisputed: Mr. Goertzen denied Mr. Anthony and Mr. Robertson the right to occupy as a tenant Mr. Goertzen's rental premises because of their sexual orientation (sections 5(1) and 12(1)(a) of the *Human Rights Act*) and I so find.

**Issue 2.** Having found the case for discrimination to be proved, has Mr. Goertzen established a reasonable justification for his actions?

### **Reasonable Accommodation and Undue Hardship**

Mr. Goertzen is of the view that his right to religious freedom permitted him to discriminate against tenants on the ground of sexual orientation. Otherwise, he believed, he would suffer “undue hardship” by punishment administered by God while he is alive and when he dies.

Subsection 12(2) of the *Act* states that to establish a *bona fide* and reasonable justification for discrimination, Respondents must “accommodate” the needs of Complainants to the point of “undue hardship”.

To “accommodate” in the human rights sense means adapting or adjusting circumstances so that people with a protected personal characteristic ( in this case, “sexual orientation”), will not suffer any harm and their need (in this case, for living accommodation) will be met.

In my view the first step toward accommodating the Complainants’ needs in this case would have been for the Respondent to communicate with them, express his concerns to them, explore alternative living arrangements, possibly apologize for any inconvenience, offer to return the paid rent and offer to assist them with finding other accommodations. Such steps have been found appropriate, for example, in circumstances where a religious institution chose to renege on a contract to lease their hall for the purpose of celebrating a same-sex marriage: *Smith v. Knights of Columbus* (2005), 55 C.H.R.R. D/10, BCHRT 544.

Mr. Goertzen’s evidence was he did not know how to approach the Complainants. However the speed with which he decided to put the rental premises on the market and the many, many opportunities he had for communication with the Complainants betrays the suggestion that he gave any thought to engaging in a dialogue or discussion with the them. Mr. Goertzen’s intention to deny the Complainants the tenancy they had bargained for was, in my view, fixed on or about May 22<sup>nd</sup>, 2009, two days after he learned of the nature of their relationship, when he re-advertised the rental premises.

The Complainants’ learned of his decision not to give effect to the signed Lease through Mr. Anthony’s sister. They learned of his decision to re-advertise the rental premises coincidentally while looking at an on-line advertiser.

Mr. Goertzen said he would have helped the Complainant’s “find something... if they had agreed to walk away” from the Lease. In other words, the Respondent wanted to ensure that any rights the Complainants’ had under the Lease were erased before he would assist them. Further, Mr. Goertzen never returned the two weeks rent paid by the Complainants until ordered by a Rental Officer. He held onto monies that he should

have known may have been needed by the Complainants' to secure other living accommodation.

In short, I have no evidence before me that Mr. Goertzen turned his mind to the needs of Mr. Robertson and Mr. Anthony at all. There was no attempt to accommodate the Complainants in this case whatsoever.

In *McGill University Health Care Centre (Montreal General Hospital) v. Syndicat des employes de l'Hopital general de Montreal*, 2007 SCC 4 at 130, Abella J. stated:

“The point of undue hardship is reached when reasonable means of accommodation are exhausted and only unreasonable or impracticable options for accommodation remain.”

Given Mr. Goertzen's failure to inquire into the accommodation needs of the Complainants, much less take any steps to actually accommodate those needs, I do not see how I can find that he was in a position of “undue hardship”.

While I accept his evidence that he believed that he would incur serious present and future harm if he rented his home to a same-sex couple I found nothing in the evidence, including in the *Bible* and *Encyclopedia* excerpts he filed, to the effect that he would suffer such harm if he did anything to help, that is, to accommodate the Complainants. Indeed Mr. Goertzen's own evidence was he might have been willing to do something to help them find living accommodation if there was a bargain struck so that he could avoid liability.

### **Weighing the Rights of the Parties**

Mr. Goertzen did not challenge the constitutionality of the Northwest Territories *Human Rights Act* in his argument or submissions. Before me he referred briefly to citations from the *Canadian Charter of Rights and Freedoms* and the *Canadian Bill of Rights* to show that his religious beliefs are protected by Canadian law.

Nonetheless the point must be made that while section 15 of the *Canadian Charter of Rights and Freedoms* protects freedom of conscience and religion, it also demands people be treated equally before and under the law and not be discriminated against on the grounds of “race, national or ethnic origin, colour, religion, sex, age or mental or physical disability”. Most importantly, section 1 of the *Charter* makes all rights and freedoms subject to “reasonable limits”.

In other words: the right to freedom of religion is not unlimited. In discussing religious freedom in the context of the *Charter*, the Supreme Court of Canada in *R. v. Big M Drug Mart Ltd.*, [1985] 1 S.C.R. 295, stated:

Freedom means that, subject to such limitations as are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others, no one is to be forced to act in a way contrary to his beliefs or conscience.” (underlining added)

In the *Martin* decision referred to me by Mr. Goertzen, that Tribunal cited the *Big M* case as authority for a Respondent to choose his own religious beliefs and act in concert with them so long as a Respondent does “not violate the dignity or rights and freedoms of others. An individual cannot rely on the freedom of religion guaranteed by the [Quebec] *Charter* as an excuse to violate another’s right to equality, for instance by discriminating against gay people”. I agree.

The Legislators of the Northwest Territories, through the inclusion of the requirement of demonstrating a reasonable justification under section 12(1) of the *Act*, have seen fit to ensure certain protected individuals and groups, including those who have a sexual orientation different than some other people, are not to be harmed by the exercise of religious freedom. I find no reasonable justification in this case.

### **Remedies**

Having found that Mr. Goertzen discriminated against Mr. Robertson and Mr. Anthony and that his actions are not justifiable, I turn to section 62 (3) of the *Act*. The question for me to answer is “what remedies are appropriate in the circumstances of this case?”

### **The Positions of the Parties**

I have found as fact the Complainants suffered significant harm and, I should add, indignity, as a consequence of Mr. Goertzen’s actions. Mr. Robertson submits that his actions were “intentional... blunt [and] deliberately taken in a calculated fashion”.

He asks, on behalf of Mr. Anthony as well, for the following:

- (a) A declaratory Order that the complained-of conduct is discrimination within the meaning of the Act;
- (b) Compensatory payment for injury to dignity, feelings and self respect in the sum of \$13,500.00 each;
- (c) Compensation for willful or malicious actions in the sum of \$10,000.00 each;
- (d) Reimbursement of wages for time taken to deal with the within complaints, in the sum of \$930.54.

The Complainants have provided myself and Mr. Goertzen with several cases to consider on the question of appropriate remedies.

Mr. Goertzen says that he has read Section 62. of the Act but does not understand why the Complainants should be entitled to the payment of any money. In his view, the proceedings before the Rental Officer, which resulted in the payment of compensation for increased rent, loss of use of household items and the return of the initial rent deposit, should satisfy their entitlement.

## **The Purpose of Awarding Compensation in Human Rights Complaints**

The Preamble to the Northwest *Territories Human Rights Act* states that “recognition of the inherent dignity and the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world...” It goes on to proclaim the “vital importance to promote respect for and observance of human rights in the Northwest Territories...”

When rights and freedoms conflict and someone is unjustifiably harmed, action must be taken to restore peace and promote the future observance of human rights. The payment of compensation by the person who causes such harm is one meaningful way of preventing future harm, not only by deterring that person, but by deterring others. The payment of compensation may also restore, as much as reasonable, any actual losses that the harmed person suffered.

Consequently the legislators of the Northwest Territories have enacted section 62 of the *Act* by which broad remedial powers are given to adjudicators including the power to make declaratory Orders, award compensation for loss of wages and expenses, award compensation for injury to dignity, feelings and self-respect and, in the most extreme cases, award punitive or exemplary damages.

There is no formula for making compensatory awards. Decisions made by other Tribunals and the Courts – especially the Superior Courts of each Territory and Province and the Supreme Court of Canada – formulate guiding principles. The law relating to remedies in Human Rights cases is consistent in this regard: cases must be decided taking into account their unique facts and circumstances.

### **Injury to Dignity, Feelings and Self Respect [s. 62(3)(a)(v)]**

I’ve read the cases provided to me by the Complainant. I take the following factors into account in deciding what, if any, compensation is to be awarded:

- (a) The vulnerability of the Complainants.

I have taken into account the Complainants are members of a historically disadvantaged group. I am also mindful that the Respondent knew that the Complainants required living accommodation because of the sale of their home and that they had to find a new home within a short window of time. He knew or ought to have known that ignoring them, threatening Mr. Anthony’s sister with the loss of her home, not returning the rent deposit, advertising and installing a new tenant would cause significant anxiety, mental and emotional stress.

- (b) The humiliation and hurt feelings of the Complainants.

It was evident to me during the evidence given by both of the Complainants they were deeply hurt and humiliated by Mr. Goertzen’s denial of tenancy and his failure to

consider their evident, imminent need for housing. I also take into account the hurt feelings created between the Complainants and Mr. Anthony's sister, feelings that linger today.

(c) The experience of victimization.

Mr. Robertson testified about being a part of and enjoying the community of Yellowknife for years, unafraid to be open about his sexual orientation. Since these events took place Mr. Robertson has been less open and more guarded about disclosing his personal circumstances. This has subtly affected his relationship with Mr. Anthony.

Mr. Anthony testified that the relationship between he and Mr. Robertson has been strained during the thirteen months since these events took place. He felt that his self-confidence had been eroded and he worries about "reprisals" that might happen if his sexual orientation is disclosed in the future. He felt his sense of personal security has been threatened.

(d) Seriousness of the discriminatory conduct.

The denial of a tenancy for reasons for sexual orientation is, objectively speaking, serious conduct. The aggravating features of this case are that (i) an agreement was signed and money was paid; (ii) the Respondent jeopardized the personal security of the sister of one of the Complainants; (iii) the Respondent made no effort to repay the Complainants' rent deposit nor accommodate their needs knowing full well what kind of turmoil his decision was bound to inflict on them.

I cannot find any mitigation in the seriousness of the Respondent's conduct because he believed, as he says, he was "following God's word". As far as I could tell from the evidence, Mr. Goertzen made his own choices. I heard no evidence that God's word included ignoring his legal obligation to treat other people – even people with different beliefs and different lifestyle choices than his own – with respect.

Under the circumstances I order the Respondent to pay to each of the Complainants the sum of \$5,000.00 for injury to dignity, feelings and self-respect.

**Willful or Malicious Acts [s.62(3)(a)(vii)]**

The Complainants say that this is an appropriate case for the imposition of punitive or exemplary damages. Mr. Robertson described Mr. Goertzen's actions as "malicious".

The Supreme Court of Canada, in *Whiten v. Pilot Insurance Co.*, 2002 SCC 18 (Can LII), set out the following "points" for a judge to put to a jury on the question of whether punitive damages are appropriate:

(1) Punitive damages are very much the exception rather than the rule, (2) imposed only if there has been high-handed, malicious, arbitrary or highly reprehensible misconduct that departs to a marked degree from ordinary standards of decent behaviour. (3) Where they are

awarded, punitive damages should be assessed in an amount reasonably proportionate to such factors as the harm caused, the degree of the misconduct, the relative vulnerability of the plaintiff and any advantage or profit gained by the defendant, (4) having regard to any other fines or penalties suffered by the defendant for the misconduct in question. (5) Punitive damages are generally given only where the misconduct would otherwise be unpunished or where other penalties are or are likely to be inadequate to achieve the objectives of retribution, deterrence and denunciation. (6) Their purpose is not to compensate the plaintiff, but (7) to give a defendant his or her just desert (retribution), to deter the defendant and others from similar misconduct in the future (deterrence), and to mark the community's collective condemnation (denunciation) of what has happened. (8) Punitive damages are awarded only where compensatory damages, which to some extent are punitive, are insufficient to accomplish these objectives, and (9) they are given in an amount that is no greater than necessary to rationally accomplish their purpose. (10) The jury should be told that while normally the state would be the recipient of any fine or penalty for misconduct, the plaintiff will keep punitive damages as a "windfall" in addition to compensatory damages. (11) Judges and juries in our system have usually found that moderate awards of punitive damages, which inevitably carry a stigma in the broader community, are generally sufficient.

An award of punitive damages was made by a member of this Panel in *Savage v. 984239 N.W.T. Ltd. Et al* in November, 2008 where the long term effects, including loss of employment, arising from a lengthy and horrific exposure to sexual harassment resulted in awards of \$15,000 in general damages each (including the employer) and \$2500 and \$5000 against the (employee) perpetrators.

This case is factually and, in my view, proportionately different.

Based on all of the evidence, I am not convinced that Mr. Goertzen acted 'maliciously'. Nonetheless Mr. Goertzen certainly intended to discriminate against the Complainants. He chose not to take any common sense action that might have lessened or prevented any adverse effects on them contrary to the ordinary standards of decent behaviour. He willfully and with disregard for their legal rights, including their rights under (what has since been determined to be) a valid tenancy agreement, for reasons relating to the sexual orientation of the Complainants, denied their tenancy and the respect and dignity they are entitled to as fellow human beings.

In my view this is an appropriate case for a punitive award to emphasize the seriousness of the Respondent's actions and to denounce discriminatory conduct that puts community members at risk of harm.

I order that Mr. Goertzen pay each of the Complainants the sum of \$1,500.00 as punitive damages.

#### **Reimbursement of Wages [s. 62(3)(a)(iv)]**

Mr. Robertson produced a list of "hours off work" between May 25<sup>th</sup>, 2009 and July 7<sup>th</sup>, 2009, that he says represents time that he lost as a direct consequence of the complaints that he and Mr. Anthony filed.

The list is not detailed and I did not hear evidence relating to each entry. Nonetheless I accept the evidence that the commencement and prosecution of these complaints was performed primarily by Mr. Robertson and that, to do so, he had to take some time off work. Without details, however, I cannot assume that all of the hours are compensable and so I order that Mr. Goertzen reimburse Mr. Robertson in the sum of \$400.00 for lost wages.

**Declaratory Orders [s. 62(3)(a)(i) and s.62(3)(b)]**

I order and declare as follows:

1. That the Respondent refrain in the future from committing the same or any similar contravention of the Northwest Territories *Human Rights Act*; and,
2. That the conduct complained of in this case, namely the denial of a residential tenancy for reasons of sexual orientation, is discrimination contrary to the Northwest Territories *Human Rights Act*.

Dated this 5<sup>th</sup> day of September, 2010.



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James R. Posynick, Adjudicator

