

**IN THE MATTER OF the NWT Human Rights Act,
S.N.W.T., 2002, c. 18, as amended.**

BETWEEN:

BILL BURLES

Complainant

- and -

CITY CAB (1993) LTD.

Respondent

Appearances:

Mr. Bill Burles

Heather Clark, Agent for the Complainant

Mr. Lou Walsh, Legal Counsel to the Respondent

REASONS FOR DECISION

Introduction:

This matter was originally referred to the Adjudication Panel by the Director of Human Rights, on or about July 31st, 2007. Mr. Burles' complaint (which was attached to the Director's letter of referral) raises the question of whether a fee charged by a taxi company for use of a vehicle suitable to transport persons with disabilities amounts to a contravention of section 11(1) (b) of the Northwest Territories *Human Rights Act* (the "Act").

The parties agreed to conduct the hearing of this matter via written Submissions. The Submissions that I received consisted of an Agreed Statement of Facts endorsed by both parties, a copy of the City of Yellowknife By-law No. 4284 (with a copy of the Yellowknife Accessible Transit System Service ["YATS"] Schedule and Guidelines attached), an Affidavit of the President of the Respondent taxi company and a written argument from each party. The argument of Mr. Burles' had two appendices: an article in the Quarterly Update published by the Council of Canadians with Disabilities (cited below) and a letter to the Human Rights Commission dated March 26th, 2008. Neither party provided me with a brief of Law. Mr. Burles, who had the assistance of a non-lawyer advocate, did refer me to two cases, which are discussed below.

Agreed Statement of Facts

The following is the Agreed Statement of Facts filed in these proceedings:

AGREED STATEMENT OF FACTS

1. On December 13, 2006 Bill Burles filed a complaint with the NWT Human Rights Commission which stated that he been charged a service fee for the use of the handi-van, which allowed him to travel by taxi while remaining in his wheelchair, when he specifically requested the handi-van from City Cab.

2. In reply to the complaint City Cab provided the following facts which do not appear to be in dispute:
 - (a) The handi-van was purchased by City Cab to enable it to perform a specific contract with the Northern Health a number of years ago. City Cab provided a driver who was on call from six in the morning to six in the evening to service the Northern Health account. There is no requirement that City Cab have or provide a handi-van unless it is contained in a specific contract such as the Northern Health contract.
 - (b) City Cab does not receive any grant or subsidy from the City of Yellowknife to provide a handi-van as part of its fleet.
 - (c) The handi-van is a more expensive vehicle than a normal car. The modifications for wheelchair convenience cost more to maintain and operate. The handi-van also has limited use as a regular van because a row of seats have been removed and it only seats four people.
 - (d) In October of 2006 City Cab discontinued the Northern Health contract and as a company no longer required the handi-van. It was sold to a City Cab driver who has been operating it since that time. There is no obligation on City Cab to provide a handi-van at this time.
 - (e) City Cab does pick up wheelchair customers with its other vehicles without extra charge with the caution that its drivers are not wheelchair attendants and they will not engage in lifting people in and out of wheelchairs. They will assist in dismantling or folding wheelchairs in order that they can be transported in normal vehicles.
 - (f) A \$6.00 service fee applied to all "Suburban type" vehicles which included all vans whenever they are specifically requested by a customer whether due to luggage requirements, number of passengers or for any other reason.
 - (g) From Mr. Burles complaint it appears that he specifically requests the handi-van and is charged a fee for the use of this vehicle. Each driver pays a weekly stand rent and then collects his fares from the customers. City Cab does not receive any of the revenues from the driver, only the weekly stand rent.
 - (h) The current board of directors reviewed Mr. Burles' complaint with the handi-van driver. He advised that the handi-van would be taken off the road if his fee were to be only that of a regular taxi cab. The van is currently 8 years old and its safety inspection was due in March, 2008. It has only one more year of life in it. The City does not allow a vehicle to be operated as a taxi which is more than 9 years old.
 - (i) On an per call basis the current Directors have approved that City Cab pay the \$6.00 call fee which the driver charges for use of the handi-van. This policy is now in effect. In addition this procedure now applies to all "Suburban type" vehicles specifically requested for wheelchair passengers.

- (j) City Cab is a privately owned shareholder company and does not have the resources available to provide a handi-van on its own. Should there be a renewal of the Northern Health contract or a similar contract which covers the extra expense of providing a handi-van then the current directors of City Cab are in favour of using the vehicle to provide the use of the handi-van to other customers with a need such as Mr. Burles without a service charge.
 - (k) City Cab reviewed its policy since Mr. Burles complaint and now the company will reimburse the driver if the reason for the request of a “Suburban type” vehicle is that the person is in a wheelchair.
3. Most wheelchairs can be folded into the trunk of a normal taxi. Mr. Burles’ wheelchair must be dismantled by removing nuts and bolts from the chair. Although the drivers of City Cab have done this for him without extra charge he finds it inconvenient and is concerned that the bolts may not be tightened properly if he uses a normal taxi-cab.
 4. City Cab has indicated that should it obtain the Northern Health Contract in the future or if some form of subsidy were available for a new handi-van it would be willing to keep a handi-van on its fleet to be provided to wheelchair customers at their request without extra charge.

Approved:

“Heather Clark”
Agent for Bill Burles

“Louis M. Walsh”
Solicitor for City Cabs (1993) Ltd.

Mr. Burles’ Argument

Mr. Burles argues that the \$6.00 fee that he has to pay to use the handi-van is a “surcharge” that discriminates against people with disabilities. He says that it is a fee that people without disabilities do not have to pay. Mr. Burles says that he and other people who suffer similar disabilities have no other option and must pay the fee because not all wheelchairs - and his in particular - can simply be collapsed and deposited in the trunk of an ordinary taxi.

Mr. Burles’ personal wheelchair requires disassembly on pick-up and reassembly upon arrival at his destination. He says that both processes increase the time he has to spend travelling, cause “significant wear and tear [to his wheelchair]” and create what he describes as a “potential safety issue” because “taxi drivers are not skilled in dismantling and reassembling wheelchairs”. In addition, Mr. Burles says that the process of transferring himself to and from his wheelchair creates “extra strain on [his] body”. He adds that there are other people with disabilities living in Yellowknife who cannot perform such transfers at all. He says that “...his ability to experience full and fair inclusion in [Yellowknife] is ultimately restricted by this extra fee” that he characterized as a “cripple tax”. He says that the fee has caused him “distress”.

He acknowledges that the The City of Yellowknife’s “Accessible Transit System” (YATS), does facilitate access for him and others who use personal wheelchairs. However he argues that YATS offers limited use for people with disabilities. He says

that YATS is not available evenings or on Sundays and that it is so busy that bookings must be made well in advance. In comparison with persons who do not have disabilities, Mr. Burles says that they are “not expected to take the bus to meet there [sic] needs, not [sic] should [he]”.

Mr. Burles drew my attention to a recent decision of the Canadian Transportation Agency (the “Agency”), namely *Neubauer et al vs. Air Canada et al* (2008), Decision 6-AT-A-2008 (reported at http://www.cta-otc.gc.ca/rulings-decisions/decisions/2008/A/AT/6-AT-A-2008_e.html); leave to appeal dismissed: S.C.C. November 20, 2008, No. 32729. In *Neubauer* the Agency:

...addressed a long-standing issue for those persons with severe disabilities who must pay more for their domestic air services than other passengers when traveling from point A to B, where they require additional seating to accommodate their disabilities, for themselves or for their Attendants.

The severe disabilities at issue in that case related to functional obesity. After a lengthy hearing involving a great deal of expert evidence, particularly on the issue of the cost of accommodating functionally obese people, the Agency concluded that the policies of the Respondent airlines that imposed additional fares for people with disabilities and their attendants to travel on domestic flights constituted “undue obstacles” to access.

Mr. Burles’ also put before me four pages from an article called “One-Person One-Fare Policy”, contained in a quarterly magazine called *A Voice of Our Own*, authored by a law student, H. Nguyen (January 2008, Volume 26, Issue 1) and published by the Council of Canadians with Disabilities. In that article Mr. Nguyen cites the following six “Principles of Accessibility” which he says founded the Agency decision in *Neubauer*:

- (1) Persons with disabilities have the same rights as others to full participation in all aspects of society.
- (2) Equal access to transportation is critical to the ability of persons with disabilities to exercise that right.
- (3) Persons with disabilities have the same needs to travel as others and should have the same travel options that are provided to others, such as those respecting mode of transportation, departure times, cost, quality of service and the ability to travel with friends, family or colleagues.
- (4) All persons with disabilities are entitled to be treated in the same manner regardless of the underlying reason for their disability and there should be no discrimination between persons with disabilities in terms of entitlement to benefits.
- (5) Persons with disabilities are to be treated with dignity and respect.
- (6) Persons with disabilities should not be placed at an economic disadvantage as a result of their disabilities and should not have to pay more for their transportation services than other passengers who do not have disabilities.

According to Mr. Burles, these are the principles that I ought to take into account in this case. In his view, the fee that he is required to pay is a barrier to his full participation in society, unnecessarily puts his safety at risk, affects his ability to exercise the travel

options that other non-disabled people have and is a barrier to him being treated with the same dignity and respect as non-disabled Canadians.

Also, Mr. Burles referred me to the decision of the Supreme Court of Canada in *Council of Canadians with Disabilities v. Via Rail Canada Inc.* [2007] S.C.J. No. 15.

In the *Via Rail* case, the same Agency (described by the Supreme Court as “an expert and specialized body”) ordered *Via Rail* to take steps to renovate thirty coach cars to accommodate the mobility needs of persons with disabilities, including their need to use personal wheelchairs. The Agency’s decision was initially set aside on appeal to the Federal Court of Canada. On further appeal to the Supreme Court of Canada, however, the Agency’s decision was restored. Mr. Burles says that the *Via Rail* case supports his view that “barriers” – including the cost barrier he complains of – are unjustifiably discriminatory.

In the *Via Rail* case (paras 153-154), the use of personal wheelchairs was found to be a necessary part of meeting the needs of persons with disabilities, including their need for personal autonomy and freedom from personal risk:

Personal wheelchair users are physically and psychologically more independent when they are able to remain in personal wheelchairs designed to meet their specific physical needs... the use of personal wheelchairs minimizes the effects of disabilities in ways that ‘on board’ wheelchairs cannot, and eliminates both the physical risks and the humiliation that can accompany transfers from a person wheelchair into alternative seating accommodations... being forced to rely on others for assistance gives rise to “human error, inconvenience, delays, affronts to human dignity and pride, cost, uncertainty and no sense of confidence or security in one’s ability to move through the network...”

Finally, in the March 2008 letter appended to his argument, Mr. Burles says that the impact of having to pay the extra fee has had an “emotional impact” on him. He calls the fee a “cripple tax” and says its effect has been to restrict his access to “social, recreational and volunteer activities”. He says that he used the handi-van ten times since 2006 and says that he would have used the handi-van more if he could afford it. He asks for compensation “for loss of quality of life and financial expenses” from the Respondent in the sum of \$3,500.00. Mr. Burles also says that since he filed his complaint (or soon thereafter), the Respondent has stopped charging the \$6.00 fee.

The Respondent’s Argument

The Respondent acknowledges that the handi-van has “extra features” that permit direct wheelchair access, i.e. without unseating the customer or requiring any disassembly. It points out that taxi drivers are the recipients of all taxi fares and that City Cab only receives “stand rent”.

The Respondent argues that the \$6 fee that applied to Mr. Burles also applied to anyone who ordered a “Suburban style” vehicle, including the handi-van, consequently Mr. Burles, it says, “was treated the same as everyone else when he requested a Van”.

Because Mr. Burles was treated the same, the Respondent argues that it did not unlawfully discriminate against him. Accordingly, the wheelchair access available in the handi-van is provided at no extra charge: the taxi driver merely collected the “normal fare” payable by every customer for its use. Therefore, the Respondent says, it would be “unfair” to require the taxi driver to effectively “discount” the normal fare and suffer a corresponding loss of income.

Also, the Respondent points out that, for wheelchair users who order an ordinary taxi, the taxi drivers do not charge for the “extra service related to storing and transporting a wheelchair”.

The Respondent further argues that there is no legislative authority, e.g. a City of Yellowknife By-law, that requires City Cabs to employ a handi-van, hence there is no obligation on the Respondent to “discount” services to people with disabilities. Such a discount would, it says, be more appropriately “born by a government agency”. Since the YATS system already exists, the Respondent suggests that Mr. Burles already has a subsidized system in place, “but Mr. Burles wants more of them”.

The Respondent confirms that it has, since the filing of Mr. Burles’ complaint, provided a “discount...to disabled persons in wheelchairs” by subsidizing its taxi drivers in the amount of the \$6 fee. It says that it has done “nothing wrong and acted in a charitable manner to provide a direct subsidy to Bill Burles and other wheelchair passengers”. The Respondent claims that now there is “discrimination in favour of wheelchair passengers” at City Taxi.

The Legislation:

Section 5(1) of the *Act* states:

- (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. (Underlining added).

Section 1 of the *Act* defines “disability” this way:

“disability” means any of the following conditions:

- (a) any degree of physical disability, infirmity, malformation or disfigurement that is caused by bodily injury, birth defect or illness,
- (b) a condition of mental impairment or a developmental disability,
- (c) a learning disability, or a dysfunction in one or more of the processes involved in understanding or using symbols or language,
- (d) a mental disorder (*incapacite*)

Section 11 of the *Act* deals with discrimination in the provision of services:

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 any goods, services, accommodation or facilities that are customarily available to the public; or
 - (b) discriminate against any individual or class of individuals with respect to any goods, services, accommodation or facilities that are customarily available to the public.
(Underlining added)
- (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 or class of individuals affected would impose undue hardship on a person who would have to accommodate those needs.
- (3) It is not a contravention of subsection (1) for an owner of a business to give preference in goods, services, accommodation or facilities, on the basis of family affiliation, to a member of his or her family.

Analysis and Decision

The burden of proving that unlawful discrimination has occurred in this case rests with Mr. Burles. He must demonstrate a *prima facie* case. That means he must show that it is more likely than not that the alleged conduct occurred and that the conduct amounts to discrimination within the meaning of the law.

The meaning of “discrimination” was described this way by McIntyre, J. in *Andrews vs. Law Society of British Columbia* [1989] 1 S.C.R. 143:

...discrimination may be described as a distinction, whether intentional or not but based on grounds relating to personal characteristics of the individual or group, which has the effect of imposing burdens, obligations or disadvantages on such individual or group not imposed upon others, or which withholds or limits access to opportunities, benefits, and advantages available to other members of society. (Underlining added)

From this definition it is clear that where “a distinction” in the treatment of individuals or groups (also called “differential treatment”) having the personal characteristics set out in section 5 of the *Act* (e.g. being a person with a disability) occurs, and it has adverse, negative or harmful effects upon such individuals or groups, the conduct will amount to discrimination within the meaning of the law.

There is no requirement for such conduct to be intentional.

Unintentional discrimination is sometimes called “adverse effect discrimination”. It occurs when a general rule or standard appears to be neutral, but which is found to have discriminatory effects upon one or more persons who are protected by human rights legislation, e.g. a person with a disability (or, for that matter, other persons with any of the other personal characteristics set out in section 5 of the *Act*).

Whether discrimination results from intended or unintended acts, policies or practices, the purpose of the legislation remains the same. The Supreme Court of Canada in *O'Malley v. Simpsons-Sears Ltd.* [1985] 2 S.C.R. 536, described the purpose of human rights legislation this way:

The Code aims at the removal of discrimination. This is to state the obvious. Its main approach, however, is not to punish the discriminator, but rather to provide relief for the victims of discrimination. It is the result or the effect of the action complained of which is significant. If it does, in fact, cause discrimination; if its effect is to impose on one person or group of persons obligations, penalties, or restricting conditions not imposed on other members of the community, it is discriminatory. (Underlining added)

The overall purpose of human rights legislation, then, is to change the conduct, rule or practice that leads to adverse or harmful effects, thereby eliminating those effects.

In *Robinson v. Canada (Armed Forces)* (1992), 15 C.H.R.R. D/95 at D/121, the Canadian Human Rights Tribunal had this to say about the purpose of human rights legislation in relation to people with disabilities:

The purpose of such legislation is to guarantee, *inter alia*, to disabled persons that they will not be excluded by society and that they enjoy a real, and not simply hypothetical right to equal opportunity with other individuals to make for themselves the lives that they are able and wish to have through their fullest possible integration into and participation in society.

I must therefore consider the effects of the taxi fee in question on Mr. Burles' right to enjoy equal transportation opportunities with other, non-disabled members of society.

The Burden of Proving Discrimination

In this case, Mr. Burles' claim that he has been discriminated against on the basis of a disability places the obligation or burden on him to demonstrate:

- That he suffers from a disability;
- That he received differential treatment in the provision of services by the Respondent and the treatment resulted in some adverse or harmful effect to him;
- That the reason for the treatment he received was related (in whole or in part) to his disability.

If Mr. Burles is able to meet these requirements, the burden then shifts to the Respondent to show that it had a *bona fide* (honest, sincere) and reasonable justification for its conduct. The Respondent must show that it could not have accommodated the needs of Mr. Burles, i.e. by operating the handi-van without a fee, without incurring undue hardship.

Does Mr. Burles have a disability?

The answer, “yes”, is not in dispute in these proceedings. Mr. Burles evidently has a physical impairment that impedes his mobility and requires that he use a wheelchair to get about.

Did Mr. Burles receive differential treatment in the provision of services that has resulted in some adverse or harmful effect on him?

The Provision of Services

The Respondent did not challenge Mr. Burles’ implied assertion that taxi services are services which are “customarily available to the public”. In any event, I am satisfied that taxi services are services within the meaning of the legislation (e.g. *Associated Cab Limousine Ltd. V. Calgary (City)* 2006 ABQB 32).

Differential Treatment

The Respondent does argue, however, that there has been no differential treatment in this case because, it says, everyone who used any of its vans (or other “Suburban like” vehicle) – wheelchair user or not – paid the same \$6 fee. According to the respondent, everyone was treated “the same”.

While the imposition of the same fee on every person is the same or identical treatment, it may not mean that it is equal treatment within the meaning of the law of human rights. Even if Mr. Burles paid the same fee as everyone else, unlawful discrimination may result because the focus of the human rights enquiry is on the effects of the treatment he received (*O’Malley, infra*) as a person with a disability whose equality is protected under section 5 of the *Act*.

At the root of all human rights legislation is the concept of equality. The Northwest Territories *Human Rights Act* reflects this principle. The preamble states:

Whereas 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 and is in accord with the Universal Declaration of Human Rights as proclaimed by the United Nations;

And whereas it is recognized in the Northwest Territories that every individual is free and equal in dignity and rights without regard to his or her 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 or social condition and without regard to whether he or she has had a conviction for which a pardon has been granted; (Underlining added)

The concept of equality in the *Act* therefore embraces not only equality of rights but equality *in dignity*. The Supreme Court of Canada has said that “assuring human dignity by the remedying of discriminatory treatment” is what human rights decision-makers must do: *Law v. Canada (Minister of Employment and Immigration)* [1999] 1 S.C.R. 497.

In *Law*, the Supreme Court had this to say about dignity in relation to the equality provisions (section 15) of the *Canadian Charter of Human Rights*:

There can be different conceptions of what dignity means...s. 15(1) is concerned with the realization of personal autonomy and self-determination. Human dignity means that an individual or group feels self-respect and self-worth. It is concerned with physical and psychological integrity and empowerment. Human dignity is harmed by unfair treatment premised upon personal traits or circumstances which do not relate to individual needs, capacities or merits. It is enhanced by laws which are sensitive to the needs, capacities and merits of different individuals, taking into account the context underlying their differences. Human dignity is harmed when individuals and groups are marginalized, ignored or devalued and is enhanced when laws recognize the full place of all individuals and groups within Canadian Society. Human Dignity within the meaning of the equality guarantee does not relate to the status or position of an individual in society per se, but rather concerns the manner in which a person legitimately feels when confronted with a particular law. Does the law treat him or her unfairly, taking into account all of the circumstances regarding the individuals affected and excluded by the law?
(Underlining added)

It seems to me that the equality guarantee mentioned in *Law* must also apply to a person with a disability when confronted with a policy that requires him to pay a \$6 fee to enjoy the same freedoms as other Canadians.

Further, Mr. Burles submits that the effect of having to pay the fee had an emotional impact on him and “was a barrier to his full inclusion in society”. I must consider his perspective, if it is a reasonable one, in determining whether discrimination has occurred in this case: *Law, infra*, @ 497.

In my view, Mr. Burles’ feelings of a diminished sense of security and self-esteem resulting from the imposition of the fee and its effects on his lifestyle are reasonably held. Having examined the context in which Mr. Burles’ complaint arose and having considered his perspective on the effects of the imposition of the \$6 fee, I find that the differential treatment in this case lies in the Respondent’s failure to consider the effects of the \$6 fee on Mr. Burles and other persons like him who require the use of a personal wheelchair and who may suffer the same loss of dignity as him as a consequence of lost mobility in the community or in having to be transferred from a wheelchair to a taxi.

In support of that view, I note that the Respondent does not take issue with Mr. Burles’ claim that it limited his ability to travel around Yellowknife, thereby excluding him from attending “family, community and cultural events”. Nor does the Respondent dispute Mr. Burles’ assertion that the fee took an emotional toll on him. In my view, these are adverse effects resulting from a policy to levy a fee for the use of a vehicle that the Respondent knew was designed specifically to transport wheelchair users. I conclude that, as a result, Mr. Burles suffered adverse effects to his sense of personal dignity and integrity.

Treating Mr. Burles the same as non-disabled persons had adverse, harmful effects on him. In short, the imposition of the \$6 fee in this case amounts to adverse effect discrimination.

Related to his Disability

For the reasons expressed above, I conclude that the reason that he suffered adverse effects from the imposition of the \$6 fee is because he is a person with a disability.

Was there a *bona fide* and Reasonable Justification for the Fee?

Neither the Affidavit produced by the Respondent nor its written argument establishes any particular reason for the \$6 fee, although the Respondent's Affidavit says that it originated in 2004 when a contract between the Respondent and government included an additional \$6 fee for the use of the handi-van. The practice continued after the expiry of the contract.

Nor did the Respondent provide any detailed information to me about the use of the handi-van, e.g. no statistics on its frequency of use or any comparative information relating to its use by persons having and not having disabilities.

The only argument raised by the Respondent as justification is that if the fee was not charged, its driver would have her or his income reduced accordingly. Again, I received no detailed information from the Respondent about what that loss was or might be and no statistical information about the effects it might have on a driver's income.

Even though the Respondent's drivers no longer charge the fee and the Respondent is now "subsidizing" wheelchair users, I was given no information about the financial impact, if any, on the Respondent, either.

While I can accept the idea that the continuation of the fee after the Government Contract ended was a sincere attempt to sustain the income it had provided to its drivers during the term of the Contract, no coherent argument was made by the Respondent to demonstrate that the loss of the fee to drivers or the subsidization of them by the Respondent amounts to "undue hardship". Even if I accept the proposition that any loss of income to drivers or the payment of a subsidy to them constitutes a measure of hardship, I am unable to infer from the evidence and the argument before me that it was "undue", i.e. that the impact of either was substantial and not trivial: *Central Okanagan School District No. 23. v. Renaud* ([1992] 2 S.C.R. 970).

The Respondent argues that because Mr. Burles had a choice, e.g. to use YATS to satisfy his mobility needs, Mr. Burles' needs could have been accommodated elsewhere and at no cost to him. In my view, the YATS schedule restricts Mr. Burles' mobility and was not a reasonable alternative to the around-the-clock availability of the handi-van services. Moreover, having found that the Respondent has discriminated against Mr. Burles, the onus is on the Respondent to show that it did so for *bona fide* and reasonably justifiable reasons. In this case I am unable to find any such reasons. Neither the evidence presented nor the arguments of the Respondent suggest a justifiable reason for the imposition of the fee on Mr. Burles nor that the Respondent could not accommodate his needs without suffering undue hardship.

Conclusion

Mr. Burles has demonstrated to me that he was discriminated against in the provision of taxi services by the imposition of a fee for use of the handi-van. The Respondent has not shown me any reasonable justification for doing so.

However, both parties agree that things have changed at City Cab. According to the Affidavit of its president, the previous Board of Directors did a “charitable service” when they decided to provide the handi-van to wheelchair users without any surcharge. The incoming Board has taken the same position.

Nonetheless Mr. Burles submits that he should have restitution for money he is out-of-pocket as a consequence of paying the \$6 fee on ten occasions between November, 2006 and March, 2008, i.e. \$60.00. He also seeks a measure of compensation for injury to his dignity, feelings and self-respect (\$3,500.00, as set out in the letter appended to his written argument).

The Respondent’s Submissions did not address the remedial provisions of the *Act* at all.

Under the circumstances I am going to direct that both parties contact the Adjudication Panel office in Yellowknife within seven (7) days of the date of this decision for the purpose of arranging to attend before me to speak to the issue of an appropriate remedy. If a party fails to respond or indicates that it does not wish to respond, I will fix a date to hear argument on the remedial provisions and decide without further notice to that party.

Dated this 4th day of December, 2008.

James R. Posynick
Adjudication Panel Member