HUMAN RIGHTS TRIBUNAL OF ALBERTA

Citation: Chipeur v EFW Radiology-Advanced Spinal Care Centre South, 2025 AHRC 74

BETWEEN:

Stephanie Chipeur

Complainant

- and -

EFW Radiology-Advanced Spinal Care Centre South

Respondent

- and -

The Director of the Alberta Human Rights Commission

Director

DECISION

Member of the Commission: Erika Ringseis

Date: July 14, 2025

File Number: S2021/07/0122

Overview

[1] The complainant, Stephanie Chipeur, alleged the respondent, EFW Radiology-Advanced Spinal Care Centre South, discriminated against her in the area of goods, services, accommodation or facilities that are customarily available to the public on the protected ground of physical disability (the Complaint), contrary to section 4 of the *Alberta Human Rights Act* (the *Act*).[1] Sensitive health information is disclosed as necessary in this decision in order to explain the findings; the complainant did not request anonymization.

[2] The complainant alleged that the respondent denied her services customarily available to the public when it refused to provide her with two ultrasounds prescribed by her physician unless she attended the test with someone who could lift her onto the examining table. For the reasons that follow, the Complaint has merit.

Background

[3] The complainant has a physical disability resulting from a spinal cord injury and uses a wheelchair. She is unable to lift herself out of the wheelchair and transfer herself from the wheelchair to a bed or diagnostic table.

[4] In her home, the complainant has a caregiver visit two times a day, in the morning to transfer her from her bed to her wheelchair and assist her with personal care tasks, and in the evening to perform the same in reverse.

[5] The complainant's caregiver cannot lift the complainant on her own. At the complainant's home, the caregiver uses a lift that is connected to the ceiling. By placing canvass slings around the complainant's legs and core, then pressing a button to lift the slings mechanically, the complainant can be transported easily and safely.

[6] The respondent is a partnership of physicians with administrative and technical staff who provide community diagnostic imaging as part of Alberta's integrated and collaborative public health service system. The respondent is part of the Alberta Health Services (AHS) network.

[7] Doctors practicing in Alberta are paid through fee-for-service schedules that itemize each service and pay a fee to the doctor for each service rendered. These are negotiated between the Government of Alberta and the Alberta Medical Association.

[8] The respondent is paid by AHS upon submission of the appropriate billing codes. The respondent has no control over the invoiced amount that will be paid, which is the same regardless of how long the procedure takes.

[9] The respondent is not the only service provider in Calgary, where the complainant lives, for diagnostic tests. There are a number of other business locations available,

[1] *Alberta Human Rights Act,* RSA 2000, c A-25.5

including the hospitals, and patients are free to take requisitions to any service provider approved by AHS.

[10] As it is only a part of the AHS infrastructure, the respondent noted that it is not equipped to provide all possible diagnostic testing. If someone needs a service that is not available or possible, the respondent can send the referral back to the referring physician to try a different service provider or location.

[11] In the normal course of business, once a physician has provided a requisition for a diagnostic test, the patient is called to set up an appointment with the respondent, who confirms the details of the test. The patient then arrives at the respondent and shows her AHS card. The diagnostic tests are generally completed by a technician before being reviewed by a radiologist or other doctor. The patient leaves and the invoice for the test is sent directly to AHS. The test results are posted online in a secure site and also sent to the patient's referring physician.

Issues

[12] The Complaint raises the following issues:

a. Did the complainant experience discrimination when she sought two ultrasounds from the respondent, in contravention of section 4 of the *Act*?

b. If so, is contravention justifiable under section 11 of the *Act*?

Analysis

<u>The Test for *Prima Facie* Discrimination</u>

[13] Section 4 of the *Act* states:

> 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, gender identity, gender expression, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income, family status or sexual orientation of that person or class of persons or of any other person or class of persons.

[14] The Supreme Court of Canada described the test for establishing a *prima facie* case of discrimination in *Moore v. British Columbia (Education).*[2] The *Moore* test for discrimination requires that a complainant prove, on a balance of probabilities, that*:*

a. The complainant has a characteristic that is protected from discrimination;

b. The complainant has experienced an adverse impact; and

c. The protected characteristic was a factor in the adverse impact.[3]

[15] Discrimination need only be one of the factors in the adverse impact. There is no requirement to prove discriminatory intent or that discrimination was a material factor in the decision.[4]

Is there a protected characteristic?

[16] A spinal cord injury as a result of a car accident resulted in paralysis for the complainant and she has no ability to move her body, other than some gross motor movements of her arms. The parties agreed that the complainant has a physical disability. Thus, the first step of the Moore test was met: The complainant has a characteristic that is protected from discrimination.

Was there an adverse impact?

The DVT Ultrasound

[17] On June 21, 2021, the complainant's physiatrist, Dr. Jennifer Litzenberger, sent a requisition to the respondent for the complainant to receive a Deep Venous Thrombosis ("DVT") ultrasound evaluation to assess a potential blood clot. The complainant explained that she cannot feel pain and self-diagnose injury, as she used to prior to the motor vehicle accident that paralyzed her. As such, the complainant noted that diagnostic evaluations are critical for her, and other individuals with paralysis, and will continue to be critical in the future.

[18] A representative of the respondent called the complainant to set up the diagnostic test on June 23, 2021, which call was recorded by the complainant. The respondent indicated that there was some urgency as DVT ultrasounds get a priority given the risk. The respondent noted that patients are usually seen within 24 hours for a DVT ultrasound. The complainant, however, noted that her swelling had subsided and the matter did not appear to be as urgent.

[2] *Moore v British Columbia (Education),* 2012 SCC 61 (*Moore*)
[3] *Moore* at para 33
[4] *Stewart v Elk Valley Coal Corp*, 2017 SCC 30 (*Stewart*) at paras 44 - 46, and 49

[19] The respondent looked at possible clinic availability at its facilities throughout the city, not just the complainant's preferred locations. The respondent offered the complainant an appointment on June 25 at a few times during workday hours.

[20] The complainant explained in the telephone call that she was in a wheelchair and did not have the ability to transfer herself from the chair to the examining table. The respondent noted that the requisition had indicated that the complainant would bring someone to help her. The complainant explained that her boyfriend, who is the only family member or friend who can comfortably and safely lift her on his own, had taken a new job and could no longer attend a daytime appointment with her.

[21] The respondent said that its personnel was not permitted to perform manual lifts of patients. At the hearing, the respondent's representative was Dr. Lautner, a qualified radiologist and the medical director and managing partner of the respondent. Dr. Lautner testified that indeed it would be contrary to policy for untrained staff to attempt to lift a patient to transfer them from a chair to an examining table, due to risks to both the patients and the staff.

[22] During the telephone call, the complainant asked if there were any places that offered a mechanical lift to transfer from the chair to the examining table. The respondent said that only the hospital was equipped with a mechanical lift. The complainant expressed some annoyance and the respondent noted that the requisition would be sent back to the doctor to be transferred to the hospital.

[23] On June 29, 2021, the complainant received a DVT ultrasound at Foothills Hospital, where the mechanical lift was available to allow for her to be transferred safely to the table in a simple and dignified manner. She acknowledged that it was necessary, for the DVT scan, to be on the table because the scan included her entire leg and groin area. It was not possible for an adequate scan to be conducted while the complainant remained in her wheelchair.

[24] The complainant argued that she experienced an adverse impact because the respondent denied her the DVT ultrasound.

[25] The respondent disagreed, noting that the respondent is part of a larger system and because she eventually received the DVT ultrasound from another part of the larger system, i.e., the hospital, there was no adverse impact.

[26] I disagree with the respondent's analysis. The complainant was denied a service by the respondent, which resulted in a delay before she could receive a necessary ultrasound. The inconvenience and loss of time associated with needing to schedule an alternative location is an adverse impact even if the complainant was able eventually to receive the ultrasound. The indignity and mental distress of being denied treatment is a further adverse impact.

[27] Once the respondent had denied a service to the complainant, the analysis of the alternative proposed, to have the procedure performed in the hospital, is a question of reasonable accommodation.

The MSK Ultrasound

[28] On June 30, 2021, the complainant's doctor sent a requisition to the respondent for the complainant to receive an additional scan, a diagnostic Musculoskeletal ("MSK") ultrasound evaluation of her left ankle.

[29] On July 8, 2021, the complainant called to book the MSK ultrasound with the respondent. During this telephone call, the complainant explained that she was in a wheelchair, that she did not have the ability to lift herself out of the wheelchair, and she did not have a caregiver who could lift her. On the ultrasound requisition, the doctor had requested that the complainant remain in her chair and have her leg be placed on the examining table by the technician for the necessary imaging.

[30] The respondent representative on the phone did not know if it would be permissible for only the complainant's leg to be placed on the table, so the conversation ended with the respondent promising to look into that possibility before returning the call.

[31] On July 9, 2021, the complainant received a further call from the respondent regarding booking the MSK ultrasound. The recording from that telephone call included the respondent confirming that the MSK ultrasound would require imaging from several angles and the respondent did not believe adequate images could be captured with just the complainant's foot on the table. The complainant was upset and frustrated, ending the call abruptly. She testified that she was about to cry and did not want to be on the phone for that emotional reaction.

[32] Dr. Lautner testified that an MSK ultrasound for the ankle would involve examining the ankle from multiple positions, including anterior with the foot flat on the bed, medial with the rotated leg flat on the bed and posterior for a scan of the Achillies tendon. Dr. Lautner testified that there are well-established procedures for conducting a MSK ultrasound and only trained ultrasound technicians overseen by a MSK radiologist can conduct the imaging. Dr. Lautner noted that the correctness of results is compromised if an image is not obtained properly.

[33] Dr. Lautner testified that it is not possible to conduct an MSK ultrasound while someone is in a wheelchair. Having the complainant's leg on the table would not necessarily get the pictures needed. He noted that the technician needs one hand to operate the scanning probe and the other hand to adjust the computerized machine to capture the images and record information. That technician cannot otherwise assist. Consideration must be given to the safety of the technician as well, avoiding overuse or ergonomic-related injuries. Dr. Lautner noted that it would be difficult and unsafe for a technician to squat low and attempt to do an ultrasound on someone in a wheelchair.

[34] The complainant testified that she was not able to get the MSK ultrasound at a hospital because the hospitals in Calgary, although they had the equipment available to provide a lift to someone in a wheelchair for a MSK ultrasound, no longer had the personnel available to perform the diagnostic test. The complainant faced an untenable

situation where she believed that she was being denied all opportunity to get the necessary MSK ultrasound.

[35] Through a familial connection, the complainant was eventually able to get the MSK ultrasound with another ultrasound provider, a week or so later. For that ultrasound, the complainant remained seated in her wheelchair and the technician simply lifted her foot up onto the table for the imaging of her ankle. Lifting her leg up onto the imaging table was what had been suggested in the original requisition by the complainant's doctor, and was what the respondent refused to do.

[36] The imaging taken with the complainant's ankle elevated on the table was adequate to rule out any soft tissue damage.

[37] Again, the respondent suggested that there was no adverse impact since the complainant was able to obtain the required imaging elsewhere. I disagree. The complainant experienced an adverse impact in the delay and personal hardship associated with multiple attempts to find a provider willing to try the MSK ultrasound in her seated position. Any analysis of the reasonable of the end result properly belongs in the reasonable accommodation assessment.

Were the protected ground and the adverse impacts connected?

[38] Given that there was a protected ground and an adverse impact for both the DVT and MSK ultrasounds, the third step in the analysis is necessary. The final step in the *Moore* analysis requires a connection or link between the complainant's disability and the adverse impact experienced.

[39] The complainant experienced the adverse impact of delay, additional telephone calls, time and effort, and feelings of frustration and mental distress as a result of the respondent's refusal to provide her with a service (the DVT and MSK ultrasounds). The complainant felt like barriers were being put up for her to overcome, and it was especially stressful because the complainant knew that, due to her paralysis, she will require more diagnostic tests in her lifetime than a person who is not quadriplegic. The time spent, the frustration, the mental distress and the stress are adverse impacts that were directly related to her disability. The complainant testified that the indignity of the situation upset her and also eroded her sense of independence. The refusal to conduct the ultrasounds was based on the complainant's physical disability and resulting inability to transfer herself from her wheelchair to the examining table. These refusals were clearly connected to the complainant's disability.

[40] As such, the complainant has proven the third step of the *Moore* test and I find that the respondent discriminated against the complainant when it refused to provide her with the DVT and MSK ultrasounds.

Reasonable Justification

[41] Where, as in this Complaint, a contravention of the *Act* is established on the evidence, a respondent can, depending on the circumstances, rely on section 11 of the *Act* to justify their discriminatory conduct:

> A contravention of this Act shall be deemed not to have occurred if the person who is alleged to have contravened the Act shows that the alleged contravention was reasonable and justifiable in the circumstances.

[42] The test for whether a contravention of the *Act* is reasonable and justifiable is a three-stage test from the firefighter case of *British Columbia (Public Service Employee Relations Commission) v BCGSEU (Meiorin).*[5] Though the *Meiorin* test[6] was formulated in the context of discrimination in an employment context, the test also applies to services. In *British Columbia (Superintendent of Motor Vehicles) v. British Columbia (Council of Human Rights) (Grismer),*[7] the Supreme Court held that:

> Once the plaintiff establishes that the standard is prima facie discriminatory, the onus shifts to the defendant to provide, on a balance of probabilities, that the discriminatory standard is a BFOR or has a bona fide and reasonable justification. In order to prove the justification, the defendant must prove that
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> 1. It adopted the standard for a purpose or goal that is rationally connected to the function being performed;
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> 2. it adopted the standard in good faith, in the belief that it is necessary for the fulfillment of the purpose or goal; and
>
> 3. the standard is reasonably necessary to accomplish its purpose or goal, in the sense that the defendant cannot accommodate persons with the characteristics of the claimant without incurring undue hardship.

[43] In the present circumstances, the evidence supports that the standard imposed by the respondent, the need for the complainant to transfer herself from the chair to the bed for the diagnostic tests, was adopted for a rational purpose. The rationale was that the diagnostic tests were performed properly on the examining table, not in a chair. Further, the respondent did not want to put its personnel at risk by allowing them to lift patients onto the examining table.

[44] The respondent also testified that the standard was adopted in good faith. The unrefuted testimony of the respondent was that the best imaging occurred when the

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[5] *British Columbia (Public Service Employee Relations Commission) v. BCGSEU*, 1999 CanLII 652 (SCC), [1999] 3 SCR 3 (*Meiorin*)
[6] As explained in *Hannah v Tolko Industries Ltd.*, 2022 AHRC 83
[7] *British Columbia (Superintendent of Motor Vehicles) v British Columbia,* 1999 CanLII 646 *(Grismer)*

complainant was on the table. The parties agreed that it is risky to have untrained employees lifting a patient onto the table, for both the patient and the employees. There was no evidence of bad faith on behalf of the respondent.

[45] Whether or not the respondent can justify its discrimination thus turns on the third question, the question of whether accommodation was possible without incurring undue hardship.

Initial Accommodation

[46] The respondent argued that the complainant was reasonably accommodated since she was able to receive the requested services eventually. She received the DVT ultrasound at the hospital and the MSK ultrasound at another provider, even though the respondent had denied both tests to the complainant.

[47] The accommodation of having an alternative provider at an alternative location provide the requested ultrasound services could be a reasonable accommodation in some circumstances. The facts of this case, however, do not support that the respondent's accommodations were reasonable for both ultrasounds.

[48] With respect to the DVT ultrasound, the respondent returned the imaging requisition to the complainant's doctor who was then able to forward the request to the hospital. Although it may have been more helpful for the respondent to transfer the requisition directly to the hospital and assist in the complainant in making the necessary appointment, the complainant was still able to receive her DVT ultrasound in an expedited matter with only minor inconvenience.

[49] Having the hospital perform the imaging if an individual was unable to transport themselves from a wheelchair to the bed appears to have been reasonable in the circumstances. As the respondent noted, the respondent is part of a larger network of service providers, and a different provider, the hospital, was able to conduct the test. Although not as preferable as having the diagnostic test performed in the first, preferred location, the hospital is a reasonable accommodation.

[50] With respect to the MSK ultrasound, however, the respondent did not provide the complainant with a reasonable alternative. The hospital did not have the ability to do the MSK ultrasound. The respondent did not provide the complainant with any reasonable alternative to receive the diagnostic test.

[51] In order to get the MSK ultrasound, the complainant had to phone around and find a provider, and ultimately relied on a familial connection to help her find a location willing to try the MSK ultrasound from the wheelchair. This provider conducted the MSK ultrasound how the complainant's doctor had suggested in the requisition, by raising the complainant's foot onto the table.

[52] The respondent did not offer any reasonable explanation as to why the other provider could conduct the ultrasound in this way, but the respondent could not. There was no evidence that attempting to conduct the ultrasound with the complainant's foot on

the examining table although she remained seated in a wheelchair would be an undue hardship to the respondent. At the time, the respondent insisted that, in order to get the appropriate view of the ankle, the complainant would have to be on the table.

[53] The respondent left the complainant to her own resources to find a solution, and it was not clear that there was a provider who could accommodate the complainant's needs. The respondent cannot rely on a larger system of providers if it has no knowledge that another provider is ready, willing and able to conduct the diagnostic test. That is not a reasonable accommodation providing justification under section 11 of the *Act*.

[54] The respondent is therefore successful in its submissions under section 11 of the *Act* for the DVT ultrasound, but not the MSK ultrasound.

Subsequent Diagnostic Test and Accommodation

[55] The complainant testified about her experience a couple of years after the Complaint was filed when she again required a diagnostic test. The respondent did not object to submissions concerning the subsequent test and accommodations. As the incident represents an allegation of a continuing contravention of the *Act*, I accepted the evidence from the parties related to a further diagnostic test conducted after the filing of the Complaint.

[56] Indeed, in September of 2024, the complainant received another requisition for a diagnostic ultrasound. This time, the respondent was better prepared to accommodate the complainant. Dr. Lautner himself called the complainant about her appointment. Dr. Lautner informed the complainant that they would provide trained individuals from a private ambulance company to safely lift the complainant from her wheelchair to the bed.

[57] The complainant provided two videos of her transitioning between a bed and her chair. The first video was of the employees of the private ambulance company transporting her from chair to bed at the respondent's facility in September of 2024. This human manual lift was awkward and undignified.

[58] The complainant is an articulate, intelligent woman who was able to direct the contractors as to the best way to lift and transport her. This was fortunate as the contractors did not appear to have a solid understanding of the complainant's restrictions, and did not appear to be comfortable in performing the lift. Further, these two male individuals had never touched her before, and she said it was uncomfortable.

[59] When the contractors lifted her, the complainant's clothes shifted uncomfortably and resulted in greater skin exposure than she felt was appropriate. Further, she had an external bladder bag from her catheter in her lap that shifted precariously while she was transported. Had that bladder bag fallen while the complainant was transferred, the catheter would have been uncomfortably ripped out of her body, causing physical and psychological damage, as well as a potential unsanitary spill.

[60] The complainant provided a second video as evidence, which demonstrated the use of her ceiling lift at home. Her caregiver, a petite woman, was able to quickly, safely

and comfortably transition the complainant from bed to chair using a simple sling system. The complainant testified that the ceiling lift was a superior accommodation, and the videos supported her testimony.

[61] The complainant therefore argued that the respondent should provide a ceiling lift like in the evidence video.

[62] Dr. Lautner agreed that a lift might be a preferred accommodation. He testified that the respondent had looked into the possibility of installing a lift. The cost of approximately $11,000 for the lift would not be billable to AHS and would not include installation of hardware or the training of staff to use a lift. Concerns had also been raised about whether the landlord would permit the facility changes necessary for installation.

[63] Dr. Lautner also noted that the economics of providing a lift system was questionable given that assistance in transferring from chair to examining table was only requested twice in 2024.

[64] The complainant noted that other public facilities often have lifts available that a person with a disability can use with assistance. The complainant suggested that she could have a family member or caregiver attend with her at the respondent's facility to operate the lift to safely transport her, thus training of the respondent's personnel wouldn't be necessary.

[65] The respondent expressed concern about liability if it provided a lift and allowed members of the public to use it. Further, I note that the use of a lift by a family member or support person does not align with the complainant's argument that she is independent and should not be forced to bring someone to the appointment with her.

[66] Because the respondent expressed concerns about installing a ceiling lift, the complainant suggested that a Hoyer lift may be preferable. A Hoyer lift is not attached to the ceiling, but otherwise operates on the same principles as the ceiling lift. The Hoyer lift is on wheels and can be rolled away for storage or transferred between locations. There is a footprint on the bottom of the lift to stabilize it, the slings are looped around the individual's body and then the electric controls can be used to move the patient off the chair and to the bed, and vice versa.

[67] The complainant acknowledged that she has used a Hoyer lift before, like when staying away from home, and that a variation of the Hoyer lift is commonly used at swimming pools and in airplanes.

[68] Dr. Lautner was interested in the Hoyer lift alternative and said that he had not been aware of that possibility before. He testified that, after seeing the complainant's video and hearing her testimony in the hearing, he started researching the Hoyer lift online.

[69] The purpose of the *Act* is remediation, not punitive, compensating for past discrimination and reducing the likelihood of future discrimination.[8] Although the respondent's initial response to the complainant in 2021 for the MSK ultrasound was inadequate and did not reach the test under section 11 of the *Act*, by 2024 the respondent had taken reasonable steps and had an accommodation in place. It was not a perfect accommodation or the preferred accommodation of the complainant. In the hearing, however, Dr. Lautner was credibly committed to ensuring that someone who cannot get out of a wheelchair herself does have an option available for safe, effective diagnostic testing.

[70] In the employment context, in an employer's duty to take reasonable steps to respond to complaints, the employer is held to a standard of reasonableness, not correctness or perfection.[9] In the provision of services, similarly, one must look at the entire context before passing judgment on whether the service provider has acted reasonably. A respondent's response does not have to be perfect, but reasonable and appropriate.

[71] At the respondent, the policies and procedures have changed. The booking personnel have now been instructed to escalate the situation to one of the physicians if anyone indicates that they are unable to move themselves from a wheelchair to the table. When that happens, the respondent engages the service of the private ambulance service to provide a manual lift of a patient.

[72] Dr. Lautner testified that, in the six months preceding the hearing, the service has only been requested twice, once by the complainant and once by another individual.

[73] Although Dr. Lautner testified that there had been no formal apology made to the complainant, he acknowledged on the stand that there is a go-forward intent to ensure that the respondent can provide diagnostic tests to an individual in circumstances like the complainant.

Conclusion

[74] The respondent discriminated against the complainant in 2021 when it stated that the complainant could not receive diagnostic testing unless she could bring someone to transfer her from the wheelchair to the examining table. The discrimination was reasonable and justifiable by the respondent under section 11 of the *Act* with respect to the DVT ultrasound. The discrimination was not reasonable and justifiable with respect to the MSK ultrasound. The contravention was addressed, however, and by September of 2024, the respondent had a reasonable accommodation in place.

Remedy

[75] The complainant is entitled to a remedy under section 32(b) of the *Act*. Human rights damage awards intend to restore the complainant to the position she would have

[8] *Panas v Edmonton Police Service*, 2025 AHRC 3 (*Panas*)
[9] *Panas* at para 75

been in had the discrimination not occurred.[10] Such awards are compensatory rather than punitive.[11]

[76] In considering the remedy, the complainant submitted evidence related to circumstances outside of Alberta, including the United States, that I find to be irrelevant for this Complaint.

[77] The Director submitted that an award of general damages in the range of $8,500-$15,000 is reasonable in these circumstances, in accordance with section 32(b)(v) of the *Act*. If damages were to be awarded, the respondent agreed that this range was reasonable.

[78] In *Kvaska v Gateway Motors Ltd.*, the Tribunal further recognized several non-exhaustive lists of factors relevant to damages assessment:[12]

- Humiliation and hurt feelings experienced by the complainant,
- A complainant's loss of self-respect, dignity, self-esteem and confidence,
- Vulnerability of the complainant,
- The seriousness, frequency and duration of the offensive treatment.

[79] Here, the complainant was in a vulnerable position, requiring diagnostic tests that the respondent refused to provide her, and she testified that this had a very negative impact on her, as described above.

[80] In *Nolting v 847012 Alberta Ltd. (Prime West Contracting)*, the Tribunal awarded $8,500 in general damages for discrimination that involved a single incident of a phone call and gender-based employment discrimination.[13] The Director's counsel noted that, adjusted for inflation, the future value of that award would be approximately $11,858.44.

[81] In *Simpson v Oil City Hospitality Inc. (Simpson)*,[14] racial discrimination resulted in a complainant being denied access to an establishment and being denied healthcare. In *Simpson*, the general damages award was $15,000, which would again be worth more in 2025.

[82] Considering the circumstances of this Complaint, including that the complainant was ultimately able to get both tests done, the suffering was limited in time and degree, and the respondent changed its policies and procedures to avoid a continuing contravention, I find that a general damages award of $15,000 is reasonable.

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[10] *Berry v Farm Meats Canada Ltd*., 2000 ABQB 682 at para 16
[11] *Lethbridge Industries Ltd v Alberta (Human Rights Commission),* 2014 ABQB 496 at para 149
[12] *Kvaska v Gateway Motors (Edmonton) Ltd*., 2020 AHRC 94
[13] *Nolting v 847012 Alberta Ltd. (Prime West Contracting),* 2017 AHRC 12 (*Nolting*)
[14] *Nolting* at para 69, citing *Simpson v. Oil City Hospitality Inc.*, 2012 AHRC 8 (*Simpson*)

[83] In addition to general damages, the Director requested an award of special damages for the complainant's taxi fare to the new provider. The complainant also argued that she had experienced additional hardship as a result of the increased associated with transporting herself to the other ultrasound provider, given its location on the other side of the city. The complainant suggested that the transportation costs were approximately $70, although she did not provide any proof of cost or payment.

[84] The evidence supports that no patient is necessarily offered their required diagnostic testing at their preferred location. Location may be affected by what appointments are available and when, in addition to what equipment and staff are available. There was no evidence to support that the complainant would have spent less on her travel to a facility, even if the discrimination had not occurred.

[85] The Director further submitted that, further to the Tribunal's remedial authority under section 32(b) of the *Act*, this Tribunal should award an order that the respondent:

a. must immediately cease, and refrain in the future from, restricting wheelchair users and others with mobility issues from accessing its diagnostic services without self-providing a support person to assist with lifting and transferring to examination tables;

b. will revise its policies;

c. will provide lifting and transferring services where a patient cannot lift or transfer themselves to the examination table and does not want to self-provide their own support person; and

d. must purchase, install, and operate at least two mechanical lifts (allowing at least one back up lift), within six months, so that patients with mobility issues can access the entirety of its diagnostic services.

[86] I decline to order any of the other requested remedies. The evidence supports that the respondent is committed to ensuring that the discrimination experienced by the complainant does not occur again. The respondent has changed its policies and procedures, as evidenced by the complainant's experience in 2024. The accommodation of providing trained third-party personnel to lift any person with a disability who needs assistance accessing the examining table is reasonable. Although the video evidence provided by the complainant demonstrates the superiority of a mechanical lift system instead of a manual lift being performed, the accommodation does not need to be perfect or preferred,[15] just reasonable. The respondent thoughtfully considered the information presented by the complainant and also expressed interest in pursuing further information regarding a Hoyer lift. I trust the respondent will evaluate the possibility of an alternative, better accommodation on its own volition.

[15] *Callan v. Suncor Inc.,* 2006 ABCA 15 at para 21; *Pearn v Alberta Health Services,* 2020 AHRC 82

Order

[87] The respondent shall pay to the complainant:

a. the amount of $15,000 in general damages for injury to dignity; and

b. judgment interest pursuant to the *Judgment Interest Act*.[16]

July 14, 2025

Erika Ringseis
Member of the Commission

Appearances

Stephanie Chipeur, Complainant
Self-represented

Dylan Snowdon, Carbert Waite LLP
for the Respondent, EFW Radiology-Advanced Spinal Care Centre South

Dustin Klaudt, Legal Counsel
for the Director of the Alberta Human Rights Commission

[16] *Judgment Interest Act,* RSA 2000, c. J-1 and *Judgment Interest Regulation*, AR 215/2011