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CASE SUMMARY: BC SUPREME COURT FINDS HUMAN RIGHTS TRIBUNAL'S DECISION THAT FAILED TO ESTABLISH NEXUS BETWEEN EMPLOYEE'S TERMINATION AND ALLEGED SEXUAL DISCRIMINATION WAS NOT PATENTLY UNREASONABLE

Administrative law – Judicial review – Decisions of administrative tribunals – Human Rights Tribunal – Investigations – Standard of review – Patent unreasonableness; Employment law – Termination of employment; Human rights complaints – Discrimination – Sexual harassment

[Sones v. Squamish \(District\)](#)

BC Supreme Court dismissed petition for judicial review in respect of Human Rights Tribunal's decision to summarily dismiss a complaint of sexual discrimination on the basis that the alleged contraventions occurred more than six months before the complaint was filed.

[2017] B.C.J. No. 191

2017 BCSC 169

British Columbia Supreme Court

February 2, 2017

J.C. Grauer J.

In January 2014, Sones, a fire department clerk, reported allegations of sexual discrimination and harassment to her employer, the District of Squamish. To ensure a comfortable and impartial investigation, the District placed her on a paid leave of absence pending the investigation. The investigator's report was completed in June 2014, concluding there was no evidence of any intimidating, hostile or offensive working environment, and that most of Sones' complaints were unsubstantiated, with the exception of some complaints of inappropriate behavioural incidents. The District discussed those incidents with the employees involved, then asked Sones to return to work. Sones refused, saying it would be impossible for her to safely return to work until it was clear she could return to a harassment-free workplace. After making numerous requests that she return to work over a period of several months, the District terminated her employment in September 2014. Her lawyer submitted a complaint to the Human Rights Tribunal in February 2015 alleging sexual discrimination.

On the application of the District, the HRT summarily dismissed the complaint on the basis of s. 27 of the *Human Rights Code*, because the alleged contraventions occurred more than six months before the complaint was filed. The HRT concluded that the termination itself, which had occurred within six months of her complaint, was not a fresh incidence of discrimination, nor was it a “continuing contravention” of the discrimination that had allegedly occurred prior to January 2014. At the hearing of Sones’ judicial review petition, the Court was unable to conclude the HRT’s decision was patently unreasonable, and her petition was dismissed.

This case was digested by [Kara Hill](#) of Harper Grey LLP. If you would like to discuss this case further, please feel free to contact her directly at khill@harpergrey.com or review her biography at <https://www.harpergrey.com/>.