

**REGISTERED**

November 16, 2021

Complaint #: S2020/12/0301

David Dickson

Dear David Dickson:

**Re: David Dickson v. Costco Wholesale Canada Ltd.: Dismissal of Complaint**

After reviewing and considering the complaint you filed with the Alberta Human Rights Commission, this is your official notice that your complaint is dismissed. The following paragraphs outline the reasons for this decision.

You have a time-limited opportunity to request a review of this decision, more completely described at the end of this letter, and I have also attached an information sheet about the review process.

***Why the Complaint is Dismissed***

Section 22 of the Alberta Human Rights Act (*the Act*) provides that the AHRC Director may dismiss a complaint at any time.

1. The complaint from you was accepted on November 17, 2020. The complaint alleged discrimination in the area of goods, services, facilities and accommodation, on the protected grounds of mental and physical disability.
2. The Respondent to the complaint is Costco Wholesale Canada Ltd.
3. This complaint was reviewed. A recommendation memo was prepared and the parties each received the memo and its attachments. In making this decision, the complaint, response, and memo dated September 10, 2021 have been reviewed. Both parties had the opportunity to provide comment on the investigation memo, but only you did. I have reviewed your submissions sent by email on October 7, 2021. I agree with the recommendation of the memo, which is that this complaint has no merit.
4. I understand that you feel discriminated against because you were not adequately accommodated by the Respondent to be able to shop at their store without wearing a facemask.
5. I agree with the analysis in the recommendation memo under human rights law a service provider has a duty to accommodate a service recipient protected by the *Act* to

the point of undue hardship. The information supports that you have had medical conditions that cause symptoms exacerbated by the wearing of a facemask. The information also supports that the Respondent has health and safety obligations associated with the COVID-19 pandemic and that accommodating your request to remain in the store without a facemask would have created risks for store staff and for other customers. Further, the information supports that reasonable accommodation was available to you in the form of wearing a face shield as an alternative, completing the purchase online, using curbside pickup, or having another person complete the purchase in-store for you. The information does not support that the Respondent failed to accommodate your medical condition, or that the Respondent acted unreasonably. There is no reasonable basis for the matter to proceed to the next stage in the complaint process.

You have raised other issues in the course of reviewing the complaint, such as the conduct of Costco in allowing other customers to access customer services unmasked, or its compliance with the Edmonton City by-laws. These issues are addressed in the recommendation memo, and are outside the scope of your complaint.

For the above reasons, my conclusion is that the complaint is without merit and this complaint is therefore dismissed.

***Request for Review***

If you disagree with this decision, you have the right to ask the Chief of the Commission and Tribunals (the Chief Commissioner) to review the decision. There is a strict time limit within which you must submit your Request for Review. According to requirements laid out in section 26(1) of the *Alberta Human Rights Act*, the Office of the Chief of the Commission and Tribunals must receive your Request for Review **within 30 calendar days** from the date you received this letter.

For more information, please consult the enclosed, *Information about the Request for Review Process*.

Your file will be closed once the appeal period has passed.

Yours truly,

**REDACTED**

AHRC Director

Enclosure

cc: **REDACTED** for Costco Wholesale Canada Ltd.

## Information about the Request for Review process

### Introduction

Under section 26 of the *Alberta Human Rights Act* (the *Act*), a complainant may ask the Chief of the Commission and Tribunals (Chief Commissioner) to review the Director of the Commission's decision. This is called a Request for Review or an "appeal".

The *Act* sets out strictly enforced timelines and procedures that everyone must follow. Information can be found about a Request for Review in the *Act* and the *Alberta Human Rights Commission Bylaws* at <https://www.albertahumanrights.ab.ca/about/pages/legislation.aspx>

### 1. When may a complainant submit a Request for Review?

A complainant may submit a Request for Review after the Director has dismissed a complaint, or when the Director has discontinued a complaint because the complainant refused to accept a proposed settlement that was fair and reasonable.

### 2. What will be accepted as a Request for Review?

The Request for Review must be in writing (handwritten or typed), and include reasons why the Chief Commissioner should review the Director's decision.

The Request for Review may also include additional information that the complainant believes is relevant to the complaint, but may not include new allegations. It should not exceed 30 single-sided pages including attachments.

### 3. What is the time limit for the complainant to submit a Request for Review?

- The Chief Commissioner must receive a Request for Review from the complainant, and any additional information relevant to the complaint, within 30 calendar days of the complainant receiving the Director's Notice of Dismissal. See section 26(1) of the *Act*.
- The Notice of Dismissal from the Director will be sent by registered mail. The 30-day time limit to appeal starts from the date that the Notice of Dismissal is received.
- The complainant should deliver the Request for Review to the Office of the Chief Commissioner by mail, fax, email, courier or in person.
- The Office of the Chief Commissioner will send the respondent a copy of the complainant's Request for Review including any attachments.

### 4. What is the time limit for the respondent to respond to the Request for Review?

The respondent, if they choose to respond, has 30 days after receiving a copy of the Request for Review to submit a response to the Office of the Chief Commissioner (section 9(2) *Alberta Human Rights Commission Bylaws*).

**5. What should the respondent submit in the response to the Request for Review?**

- The respondent may submit any written information that is relevant to the complaint.
- The response should not exceed 30 single-sided pages including attachments.
- The Office of the Chief Commissioner will send the complainant a copy of the respondent's response, if one has been received.

**6. What information will the Chief Commissioner review?**

The Request for Review will be determined on the basis of the written record, including any submissions from the complainant and respondent, plus the file that was before the Director. The Director will provide the complaint file to the Chief Commissioner, including:

- The Complaint, the Response and any attachments;
- The Investigation Report or Investigation Memo, if one was written;
- Any attachments to the Investigation Report or Investigation Memo;
- The Notice of Dismissal or the Notice of Discontinuance; and
- All relevant correspondence and documents between the Director and the parties.

The complainant and respondent are responsible for sending the Chief Commissioner any other documents, not listed above, that are relevant to the Complaint.

**7. What happens after the Chief Commissioner reviews the Request for Review?**

The Chief Commissioner may uphold or overturn the Director's decision. The Chief Commissioner's decision is final and binding on the parties, subject to judicial review.

Where the Chief Commissioner overturns the Director's decision, the complaint will go through the Tribunal process. The complainant will be responsible for presenting their complaint to a Human Rights Tribunal. Where the Chief Commissioner upholds the Director's decision, the complaint file will be closed.

Please note that all Request for Review decisions will be published on CanLII. For information on circumstances that would warrant making names anonymous in a decision, please contact the Office of the Chief Commissioner.

**8. Where should the Request for Review and response be sent?**

Chief of the Commission and Tribunals  
Alberta Human Rights Commission  
7<sup>th</sup> Floor, Commerce Place, 10155-102 Street  
Edmonton, Alberta T5J 4L4  
Fax: 780-638-4641  
Email: [AHRCTribunal@gov.ab.ca](mailto:AHRCTribunal@gov.ab.ca)

**Important: Please keep your current contact information updated with the Tribunal**

For more information please call 780-638-4635

To call toll-free within Alberta, dial 310-0000 and then enter the area code and phone number