

Date Issued: April 26, 2024

File: CS-003440

Indexed as: Thomas v. Signals Design Group, 2024 BCHRT 135

IN THE MATTER OF THE *HUMAN RIGHTS CODE*,  
RSBC 1996, c. 210 (as amended)

AND IN THE MATTER of a complaint before  
the British Columbia Human Rights Tribunal

BETWEEN:

Raminder Kaur Thomas

Thomas

**COMPLAINANT**

AND:

Signals Design Group

**RESPONDENT**

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**REASONS FOR DECISION**  
**APPLICATION TO DISMISS A COMPLAINT**  
**Section 27(1)(c)**

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Tribunal Member:

Laila Said Alam

On their own behalf:

Raminder Kaur Thomas

Counsel for the Respondent:

Anthony Moffatt

## I INTRODUCTION

[1] Raminder Kaur Thomas alleges that Signals Design Group [**Signals**] discriminated against her in employment on the basis of sex, contrary to s.13 of the *Human Rights Code*. She says the Senior VP harassed and bullied her at work for being a woman. She says upper management did not support her when she brought workplace incidents to their attention and required her to continue reporting to the Senior VP. She said she received radically different treatment than her male counterparts and had to resign because of the toxic work environment.

[2] Signals denies discriminating and apply to dismiss this complaint under s. 27(1)(c) of the *Code*. Signals argues that Ms. Thomas has no reasonable prospect of establishing that she experienced an adverse impact in employment or that her sex was a factor in the adverse impact she alleges. Signal also argues they are reasonably certain to establish a defense at a hearing.

[3] I have reviewed all of the evidence. I am satisfied that I can decide this application on the question of whether Ms. Thomas' protected characteristic was a factor in the toxic work environment she alleges.

[4] For the following reasons, the complaint is dismissed. To make this decision, I have considered all the information filed by the parties. In these reasons, I only refer to what is necessary to explain my decision. I make no findings of fact.

## II BACKGROUND

[5] Ms. Thomas highlights specific incidents to ground her complaint. This section will provide an overview of her complaint, followed by details of the incidents that occurred before and after her resignation.

[6] Signals is a communications and design company incorporated in British Columbia with a head office in Vancouver. The head office employs about 12 people.

[7] Ms. Thomas describes herself as a woman of colour. At the material time, she was the Digital Director. Sometime during her time as Digital Director, she began reporting to the Senior VP. It is the Senior VP's conduct towards her that she says was discriminatory.

[8] Ms. Thomas attended daily team meetings to discuss the day's priorities [**Team Meeting**]. The Team Meetings were followed by a larger staff meeting [**Staff Meeting**]. The Senior VP began attending the Team Meetings on or around November 10, 2020. He allegedly told her he needed to attend the Team Meetings "due to her inaction."

[9] Ms. Thomas says the Senior VP admonished her in front of staff on several occasions. He faulted her for her team not completing a task and admonished her for not forwarding him an email from a client. She maintains that the task had been completed and the email had been received over the weekend and was not an urgent issue. She says the public admonishments made her feel degraded and humiliated. She alleges that she asked the Senior VP not to admonish her in front of staff, and the Senior VP told her that "he needed to make an example of [her] in front of other staff." She alleges that at a meeting she did not attend, he told staff that she was "unprofessional" and not present because she was "mad at him and he didn't know why."

[10] Ms. Thomas also says that the Senior VP raised concerns that she was not using a Customer/Contact Relationship Management tool. She said he raised concerns even though there had been no training and a plan had not been implemented on how to use it as a project tool.

[11] Ms. Thomas says he was also denigrating, harassing, and condescending in a chat about a human resources issue. Specifically, in a private communication thread, Ms. Thomas wrote to the Senior VP about what she described as a "passive aggressive message" he had sent about a male employee in a group chat. She wrote, "I just don't think it's very nice to call him out (from an HR perspective) in front of other staff." The Senior VP denied deliberately denigrating the employee in front of the group and wrote, "I just think he's been lying and cheating us." The Senior VP accused the employee of stealing time and "[skimming] from the top." The Senior VP

threatened to terminate the employee because he spent too long, and was ultimately unsuccessful, fixing the website. Ms. Thomas responded by encouraging the Senior VP to exercise restraint and to consider other possibilities for the employee's inability to complete the task quickly or independently. Ms. Thomas suggested that they make inquiries and investigate the reasons for the work product issue with the employee as well as with independent sources before arriving at a negative conclusion. In response, the Senior VP wrote, "In the future please do not throw the [Human Resource] on me especially when you should had a better eye on your team...If you had a better idea what they're doing we would not be here." Ms. Thomas says this exchange is another example of the Senior VP's tendency to "call out" employees in group meetings, as well as his tendency to condescend to her when she confronted him about issues in the workplace. Ms. Thomas viewed his response as "harassment and degrading."

### *1. Resignation*

[12] Ms. Thomas notified Signals of her intention to resign on November 26, 2020, through text message to Signals' Upper Management. The text message read, "I tried speaking to [the Senior VP] and he came back at me saying I need to keep a better eye on my team. I can't win. I can share the chat with you when you have time and you can review. I can't do this anymore. I'm sorry. We have to speak about my resignation when you're back." A subsequent telephone call that day confirmed that her resignation would be effective immediately. The parties agreed that Ms. Thomas would continue to work during her notice period, which would end sometime in December. After that, Ms. Thomas used her accrued vacation days to remain on Signals' payroll until January 6, 2021.

### *2. After her Resignation*

[13] On November 29, Ms. Thomas wrote to the Senior VP to decline a one-on-one meeting. She said, "I don't feel comfortable having these meetings without someone else present. If you would like to have a group meeting to discuss operational issues, we can arrange that." The Senior VP wrote in response:

That's fine and if you want to go the prejudice route because of my size then that's fine. But this is your job and you have to do it if you like it or not. I suggest that you maybe move out the digital and client service earlier than agreed on since you will start causing an unbalanced momentum while we're trying to grow the company. And personally believe you're currently unfit for this role. Sometimes in life we have to make decisions that are unselfish. I've been attacked all my life and people use my size and look as an excuse and personally I think it's a bit rude and biased. However, you're an adult and know what's best for you. Please let us know your decision as we cannot move forward if you're unwilling to do your job as observed with unwarranted attacks on me.

[14] Read in context on the evidence before me, I understand the phrase "the prejudice route" to refer to disparaging remarks that the Senior VP believed Ms. Thomas had made about his looks and size. Ms. Thomas denies making comments about the Senior VP's appearance.

[15] On November 29, 2020, Ms. Thomas wrote to Signals' upper management, including human resources, to lodge her first written complaint about the Senior VP. She raised concerns with his unfounded accusations, public admonishments, and him making an example out of her.

[16] On November 30, 2020, Ms. Thomas again wrote to Signals' upper management. She said that she and the Senior VP had "another disagreement" at the Team Meeting. During the Team Meeting she asked him to take things offline twice. In response, he said that if she felt victimized or afraid, then she should "call the police." She wrote, "[a]gain, this behaviour is creating a toxic environment for me and now the [Team]." She requested that he no longer attend the Team Meeting.

[17] For the remainder of Ms. Thomas' notice period, she was assigned to a different role where she no longer reported to the Senior VP. There was no change to her wages during her notice period.

[18] Signals' upper management responded to Ms. Thomas' November 30 complaint that the Senior VP's conduct was creating a toxic environment. Signals' investigation consisted of talking to the Senior VP about the allegations. The Senior VP raised concerns about Ms. Thomas'

attendance and performance. Signals' upper management then asked Ms. Thomas for her response to the Senior VP's concerns about her attendance and performance.

[19] On Dec 2, 2020, Ms. Thomas and the Senior VP had the following email exchange:

Ms. Thomas: “[A client] called me very upset, so someone should reach out to her ASAP.”

Senior VP: “I called her it’s all good and she’s fine and not sure what you’re talking about? She said that you (Raminder) did not respond for weeks and was a bit worried now. I talked to her and everything is okay, [C] and myself will have a call with [A] in a few minutes to get it done for her ASAP. This is another example of the importance to give correct quotes and timelines to clients as clients are not our friends so we don’t [need to give] them special deals in terms or impossible timelines and promises.”

Ms. Thomas: “Please do not harass and embarrass me by criticizing me in front of other staff. This keeps continuing and needs to stop. Thank you.”

Senior VP: “Please forward your email to me right now and stop sabotaging us. Trust me a guy like me doesn’t need [to] harass and embarrass someone like you.”

[20] Read in context on the evidence before me, I understand the Senior VP to mean that he believes that someone with his work ethic and experience would not be threatened by Ms. Thomas, who he already deemed to be “unfit” for the role. Ms. Thomas does not offer an explanation about how this or any other statement is tinged with sexism.

[21] Ms. Thomas alleges that the Senior VP viewed her LinkedIn profile while she was still a Signals employee. Ms. Thomas alleges that LinkedIn subsequently sent her a notice that her profile was reported for containing inaccurate content, namely that she held the position of Digital Director at Signals. As a result, she had to dispute the LinkedIn report so that this information would not be removed or disabled from her LinkedIn profile. Ms. Thomas alleges that the Senior VP reported her to LinkedIn and she views this as a form of bullying her.

[22] Ms. Thomas alleges that the Senior VP made a defamatory post about her on Glassdoor, a website where employees review employers. In the capacity of a Senior VP reviewing Signals, the post reads in relevant part:

[T]here was a digital director that was friends with the owners and she treating me rudely amongst my other subordinates, making fun of my looks and weight, saying that I wasn't adequate for the position, I found these messages after they left on our company Slack. It hurt my feelings a lot since I was hired to clean things up, people were either stealing clients or not answering emails for a week on the end where clients had left, in fact, the staff at the time over promised and under-delivered on normal things[...].

[23] Ms. Thomas wrote to Signals upper management and asked that the Glassdoor post be removed immediately. She wrote that the Senior VP “[i]s still bullying me by making slanderous posts about me...I do not want to take legal action, but will have to if this continued harassment doesn't stop.” Signals disclaims having had any knowledge of anyone, including the Senior VP, posting anything on Glassdoor about Signals. They only learned of the post when Ms. Thomas brought it to their attention. Signals says it activated a Signals Glassdoor account about a week after learning about the post from Ms. Thomas. Signals says any member of the public could have made the post. Neither party has addressed whether the post has been removed or whether Signals investigated who authored the post.

[24] Ms. Thomas says approximately a month after she left Signals’ employment, another woman left Signals’ employment.

### **III DECISION**

[25] Signals applies to dismiss Ms. Thomas’ complaint under s. 27(1)(c) of the *Code*.

[26] Section 27(1)(c) of the *Code* allows the Tribunal to dismiss complaints that do not warrant the time and expense of a hearing: *Berezoutskaia v. British Columbia (Human Rights*

*Tribunal*), 2006 BCCA 95 at paras. 22-26, leave to appeal ref'd [2006] S.C.C.A. No. 171 [Berezoutskaia].

[27] On an application under s. 27(1)(c), the Tribunal takes into consideration all materials filed by the parties, including a respondent's explanation for their alleged conduct. The Tribunal does not make findings of fact or credibility, but rather, assesses all the information and evidence for the purpose of determining if there is a reasonable prospect the complaint would succeed: *Berezoutskaia; Francescutti v. Vancouver (City)*, 2017 BCCA 242 at para. 52. The Tribunal only considers the information before it and not what evidence might be given at a hearing: *University of British Columbia v. Chan*, 2013 BCSC 942 at para. 77. It is up to the parties to give the Tribunal the information necessary for it to make a decision: *Bell v. Dr. Sherk and others*, 2003 BCHRT 63 at paras. 25-26.

[28] Signals bears the burden on this dismissal application. To succeed, it must persuade me that the complaint has no reasonable prospect of success at a hearing.

[29] To prove her complaint at a hearing, Ms. Thomas will have to prove that: (1) she has a characteristic protected by the *Code*, such as sex; (2) she experienced an adverse impact or treatment in an area protected by the *Code*, such as employment; and (3) her protected characteristic was a factor in the adverse impact or treatment: *Moore v. British Columbia (Education)*, 2012 SCC 61 at para. 33. Ms. Thomas is not required to prove the complaint at this time but need only point to some evidence capable of taking the complaint "out of the realm of conjecture": *Berezoutskaia* at para. 24. The threshold to move the complaint forward to a hearing is low.

[30] I find that I can decide this application by determining whether there is a connection between Ms. Thomas' sex and the adverse impact she experienced. For that reason, I will assume without deciding that Ms. Thomas has taken the first two elements of her case out of the realm of conjecture.

[31] For the following reasons, I am persuaded that Ms. Thomas has no reasonable prospect of proving that her sex was a factor in the adverse impacts she experienced.

[32] Ms. Thomas points to several incidents where she felt harassed, embarrassed, and demeaned by the Senior VP. In summary, Ms. Thomas says the Senior VP demeaned her about her work product and work ethic in front of other staff and one-on-one. He reported her LinkedIn profile as inaccurate, and he posted a review on Glassdoor that accused her of unprofessional conduct. She says Signals reassigned her work during her notice period, delayed providing her record of employment and did not adequately address her complaints about the Senior VP's conduct. All of this created a toxic work environment for her. She relies on these incidents, and the fact that she is a woman, to support her argument for sex discrimination.

[33] In *Gunn v. Atsma*, 2005 BCHRT 36 [**Gunn**], the Tribunal dealt with an application to dismiss a complaint alleging discrimination on the basis of sex under s. 27(1)(b). Although this application is brought under s. 27(1)(c), the following statement provides some useful language when assessing the evidence in this case:

[...] Ms. Gunn states that she "knows" that Mr. Atsma has reduced her hours because she is native and a woman. However, she does not include details of any statements or actions on the part of Mr. Atsma that would support such a conclusion. In other words, nothing in the complaint takes the allegations out of the realm of conjecture, as the facts alleged in the complaint do not support a nexus between Ms. Gunn's race and sex and her alleged unfair treatment by Mr. Atsma. (at para. 8)

[34] As in both *Gunn* and this complaint, the evidence must be viewed within the context that gives rise to the complaint. Ms. Thomas provides circumstantial evidence to support her claim of discrimination; namely that a female employee left Signals' employment a month after Ms. Thomas ended her employment with Signals.

[35] The materials before me all point toward an understanding that Ms. Thomas' relationship with the Senior VP was a fraught one. From her perspective, the Senior VP was highly reactive, lashing out more than once in an emotional manner before even checking whether his assumptions were accurate. He spoke about her and other team members in a

disparaging way. I can easily see how his unpolished, and seemingly aggressive, communication style served to sow division amongst his team.

[36] In this context, I appreciate how Ms. Thomas could conclude that Signals was a toxic work environment. However, even if I were to assume that Ms. Thomas could prove at a hearing that the incidents occurred exactly as she described, I am persuaded that there is no reasonable prospect that her evidence before the Tribunal could support an inference that her sex was a factor in the Senior VP's unprofessional conduct or Signals' response to it.

[37] In the complaint before me, Ms. Thomas has not alleged facts that take her allegation that Signals contravened the *Code* out of the realm of conjecture. Ms. Thomas has not explained or provided evidence to support, that her sex was a factor in the Senior VP's unprofessional communications with and about her. While in some contexts comments like Ms. Thomas being "unfit" for her role, or "trust me a guy like me doesn't need [to] harass and embarrass someone like you," might take a complaint out of the realm of conjecture, it is not apparent to me that such comments, read in the context of this case, establish that Ms. Thomas' sex was a factor in the Senior VP's treatment of her.

[38] Though the Senior VP's communication style has much to be desired, I am not persuaded that his writings or alleged utterances are related to Ms. Thomas' sex. I have no trouble accepting that the Senior VP's conduct and Signals' response to it, such as it was, created a toxic work environment from which Ms. Thomas felt she had no choice but to leave. However, as in *Gunn*, that is not enough to persuade me that her allegation that her sex was a factor in the Senior VP's or Signals' conduct is more than speculative.

[39] Ms. Thomas also alleges in her complaint that she was treated radically different than her male co-workers. However, she has not pointed to any evidence to explain what she means by this statement. A bald statement is insufficient to take her complaint out of the realm of conjecture. In order to rely on differential treatment as a factual basis for her complaint, complainants must provide the Tribunal with some evidence so it can consider it in this application. She did not. Moreover, the evidence before me suggests that the Senior VP treated

male employees in a manner similar to the way he treated Ms. Thomas. For example, Ms. Thomas alleges he was rude and aggressive to a male employee in front of the team, accusing him of the very serious offence of stealing from Signals without any basis other than “just think[ing]” it to be true. On the evidence before me, I find that there is no reasonable prospect Ms. Thomas will prove that she was treated differently than her male counterparts.

[40] I turn now to Ms. Thomas’ complaints that Signals did not respond appropriately when she brought the Senior VP’s conduct to their attention. An employer has an obligation under the *Code* to take allegations of discrimination seriously and to respond accordingly. This obligation was summarized in *Nelson v. Goodberry Restaurant Group Ltd. dba Buono Osteria and others*, 2021 BCHRT 137 at para. 90 as follows:

... employers have obligations under the *Code* to respond reasonably and appropriately to complaints of discrimination... This includes a duty to investigate. Because the *Code* obliges employers to respond to allegations of discrimination, a failure to do so in a way that is reasonable or appropriate can amount to discrimination.... In particular, an investigation can, on its own, amount to discrimination “regardless of whether the underlying conduct subject to the investigation is found to be discriminatory”... Some factors the Tribunal may consider are whether the employer and persons charged with addressing discrimination have a proper understanding of discrimination, whether the employer treated the allegations seriously and acted “sensitively”, and whether the complaint was resolved in a manner that ensured a healthy work environment...

*Jamal v. TransLink Security Management and another (No. 2)*, 2020 BCHRT 146 at para. 106 [citations omitted]; see also discussion in *Denness v. PDK Café and others*, 2020 BCHRT 184 at paras. 200-203 and *Algor v. Alcan and others (No. 2)*, 2006 BCHRT 200 at paras. 185-188.

[41] I appreciate Ms. Thomas’ disappointment in Signals’ investigation of her complaint. Signals has not put before me any workplace discrimination or harassment policy that would

have guided their investigation of Ms. Thomas' complaint. Signals' investigation was limited to speaking to the Senior VP about the issues Ms. Thomas raised. I do not see that the Senior VP addressed the allegations. Instead, he used the opportunity to voice concerns about Ms. Thomas' attendance and work performance. Signals appears to have abandoned Ms. Thomas' complaint and investigated her work performance instead. From the evidence before me, Signals' investigation is concerning and could have been significantly improved.

[42] However, it is not evident to me that Ms. Thomas ever told Signals that she thought the Senior VP's conduct towards her was linked to her sex. Nor is there evidence that suggests Signals ought to have known her complaint involved an allegation that she was being discriminated against at work on the basis of her sex. As a result, I am not convinced that the way Signals addressed her complaints require further scrutiny on this application.

[43] The remaining factual basis for Ms. Thomas' complaint is that Signals did not issue her ROE in a timely manner. The materials before me includes the correspondence between Ms. Thomas, Signals, and Signals' payroll company. Ms. Thomas' last day on Signals' payroll was January 6, 2021. It appears that her final pay period ended on January 15, 2021. The run date for the final pay period was scheduled for January 18, 2021, and the corresponding payment date was scheduled for January 21, 2021. It appears that the ROE was generated on January 18, 2021, the same day Ms. Thomas' final vacation pay and salary were processed. Ms. Thomas does not offer an explanation about the extent of the delay, or how the delay in issuing the ROE is tinged with sexism. It is not apparent to me how Ms. Thomas' sex was a factor in Signals' delay in issuing her ROE. I find that this allegation has no reasonable prospect of success.

#### **IV CONCLUSION**

[44] For all the above reasons, the application is granted. The complaint is dismissed pursuant to s. 27(1)(c) of the *Code*.

Laila Said Alam  
Tribunal Member