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Nunziata's ex-aide claims she tormented, abused him; York South-Weston councillor refutes allegations

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He says his supervisor harassed him, mocked his disability and swore at him in front of co-workers to the point where he was so stressed he couldn't sleep and fell down a set of stairs.

She insists she did nothing of the sort, and adds that he was a less-than-satisfactory employee who once put his leg up on a table and made an offensive gesture in front of other office staff.

Such was the scene before an Ontario Human Rights Tribunal hearing Tuesday, the second day of hearings into allegations of harassment and discrimination against veteran York South-Weston councillor Frances Nunziata.

George Berger's complaint claims Ms. Nunziata's torment drove him to an "adjustment disorder with features of anxiety and depression," as his doctor called it, when he worked as her executive assistant five years ago.

Mr. Berger, 57, has a hereditary condition called multiple osteochondromatosis, a growth of cartilage on bones and joints that minimizes his mobility. According to a statement from his lawyer **Raj Anand**, the disability makes it difficult for Mr. Berger to sit or stand for long periods of time; it gives him back pain, arthritic fingers and renders one arm (his left) shorter than the other.

Ms. Nunziata's behaviour, Mr. Berger alleges, grew increasingly "negative, abusive and 'bullying'" throughout the spring and summer of 2005, getting to a point where he couldn't sleep, woke up one October night, lost his balance and fell down the stairs.

What followed was a protracted sick leave. Ms. Nunziata said during the hearing Tuesday she was under the impression the leave was connected only to Mr. Berger's fall, and that she did not hear about his depression until "much later."

"In the months that he worked with me not once did he indicate he was depressed or that he had difficulty working in my office," she said. "I gave him numerous opportunities to tell me if there was a problem, and he never did."

A memorandum of understanding with the city stipulated Mr. Berger would continue to be paid for the remainder of his contract with the city, which expired in November, 2006. But Mr. Berger claims he should have been given a different city job removed from Ms. Nunziata.

The case is a "credibility battle," Mr. Anand said,

adding that the clashes in question were "specific incidents related to Mr. Berger's disabilities," he said.

"In a situation where it's clear he had a disability, it's clear she was aware of it and she, it appears, mocked him for it."

Ms. Nunziata has denied the allegations. Her response states that the city conducted an internal review of Mr. Berger's accusations five years ago and "was not able to substantiate" any of them. Furthermore, her response notes, even if she had suggested Mr. Berger has a faulty memory (which she insists she never did), such a comment "would not constitute harassment or discrimination under the [human rights] code."

But, she said Tuesday, "It's true I did not want him back, yes."

The city's 44 councillors are responsible for selecting their own executive assistants, who are hired on contracts and may be paid up to \$77,823.20 under current rates. Winnie Li, the city's director of council support services, said an average of 15 to 25 councillor staff leave every year, either because of termination, resignation or retirement. Ms. Li said her department hears about clashes between councillors and their staff fewer than a dozen times a year.

Ms. Nunziata, a former mayor of pre-amalgamation York who handily won her York-South Weston seat last week, has been named as one of several councillors who might figure prominently in mayor-elect Rob Ford's council, possibly as speaker.

Ms. Nunziata is one of several councillors who endorsed Mr. Ford leading up to the election.

Mr. Berger is seeking \$140,000 from the city for lost wages and \$30,000 for "infringing his rights." He also wants apologies from Ms. Nunziata and the city, and mandatory human-rights and anti-harassment training for the councillor.

The hearing resumes Jan. 28.

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