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Tribunal rules city violated rights of Nunziata's ex-aide

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Illustrations: Berger has limited mobility.

It's likely the City of Toronto will be forced to pay a disabled man damages now that Ontario's human rights tribunal has determined the city failed to investigate George Berger's allegations of discrimination and harassment.

But adjudicator Kaye Joachim found that tension between Berger and his former boss, Councillor Frances Nunziata, wasn't related to the man's disability - a hereditary condition that limits his mobility.

While Nunziata's alleged conduct toward him was "clearly rude and demeaning," Berger himself told the city's human rights office at the time that he did not believe it was linked to his disability, Joachim found. "I am not satisfied that the evidence demonstrates that there was a nexus between the applicant's disability and the personal respondent's conduct," she ruled.

Nunziata did not respond to a request for comment.

"It's a split decision," Berger's lawyer, Raj Anand, said of the ruling. "It finds that the city failed on the most significant items, which were to accommodate Mr. Berger's disability . . . and also its failure to take his concerns seriously and (failure) to investigate them. It's likely damages will flow from that."

Berger's allegations stem from a series of incidents with Nunziata in 2005. Berger - who suffers from multiple osteochondromatosis, which produces cartilage growth on bones and joints - accused Nunziata, now also serving as council's speaker, of making "humiliating and degrading" comments because of his disability.

The city characterized the pair's relationship as a personality clash.

Nunziata's lawyer, Michelle Henry, argued that even if the adjudicator believed Berger's accusations, they don't prove there was discrimination on the basis of disability.

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