

WHAT ARE DAMAGES?

Often when discrimination happens, you, the Complainant, have been harmed in some way. The negative impacts on you are the injuries (also called damages) you have suffered.

The Hearing Examiner decides what “damages” you should be awarded. He or she decides this based on the evidence presented at the Hearing on the Merits.

When awarding damages, the goal of the Hearing Examiner is to “make you whole.” “Making you whole” means putting you in a condition that is *at least as good as* if you had never been discriminated against.

WHAT TYPE OF DAMAGES CAN I CLAIM TO HAVE SUFFERED?

There are two different types of damages you can suffer. They are emotional damages and economic damages.

EMOTIONAL DAMAGES

Emotional damages are emotional hurt, embarrassment, humiliation or distress related to the amount of suffering you have experienced due to discrimination.

If you claim to have suffered from emotional damages, you must be able to speak at the Hearing about how the discrimination has negatively affected you, your life, and your relationships.

You may also know other people who have witnessed these negative effects in your life, like your husband, wife, or domestic

partner. It is a good idea to have these individuals explain what they have seen or heard at the Hearing. If they are not able to attend you may collect a witness statement. To learn how to collect these statements read our brochure *Gathering Information Before Your Hearing On the Merits: Preparing Witnesses*. To learn how to collect and submit evidence read *Gathering Information Before Your Hearing on the Merits: The Discovery Process*.

You may also collect statements from mental health professionals or have them speak on your behalf at the Hearing.

ECONOMIC DAMAGES

Economic damages are money losses that you can measure due to the discrimination you suffered. Economic damages can be measured through receipts, lost wages, etc.

If you claim economic damages, you must be able to present evidence that shows that you lost money because you were discriminated against. This type of evidence may include things such as bills for additional storage costs in a housing case, or expenses related to searching for a job.



PLEASE NOTE:

The Hearing Examiner will not award any damages that are created to punish, or “get back at” the Respondent. The Examiner can only compensate you for your own economic and emotional suffering.

ONCE I HAVE DECIDED WHAT TYPE(S) OF DAMAGES I HAVE SUFFERED, HOW DO I PROVE IT?

To receive compensation for damages, you must present evidence to the Hearing Examiner at the Hearing on the Merits. To learn more about how to submit evidence read our brochure called *Gathering Information Before Your Hearing on the Merits: The Discovery Process*.

Trying to Show the Hearing Examiner that You Suffered Damages

To prove to the Hearing Examiner that you have suffered damages, you must identify what losses you have experienced.

If you are claiming economic damages, you must show that you attempted to put yourself in a condition *similar or better* than you were before the discrimination happened. This is called “mitigating your damages.”

To make these concepts more clear here is a sample situation:

FOR EXAMPLE

Someone was fired from her job because of her sex. After this she looked and applied for jobs that were similar in pay and benefits to the job that she was fired from. She worked at a lower paying job to pay the bills while she was job hunting. After five months of job searching and applying, she was hired at a job with similar pay and benefits to the one she was fired from initially.

If she proves that she was a victim of discrimination, she may be able to receive compensation for these damages:

- a) the money that she lost while applying for jobs, while she was not working;

AND

- b) the difference between the lower paid job she held and the job she lost;

AND

- c) any emotional damages she may have suffered.

Now what she must do is:

1. prove that she was discriminated against;
2. identify the specific damages she suffered (remember they fall into two categories-either emotional or economic);
3. be able to show that she was mitigating her damages (she was searching and applying for jobs that would put her in the same or better condition she was in before the discrimination happened).

To show the Hearing Examiner that she was mitigating her damages (by looking for and applying for jobs), she would need to present evidence at the Hearing. Types of evidence that would be acceptable here are: torn out job ads, copies of filled out applications, and dates of job interviews.

Remember that for evidence to be considered at the Hearing, it must be submitted before the Hearing. To learn about submitting evidence read *Gathering Information Before Your Hearing on the Merits: The Discovery Process*.

Please feel free to either download a complaint form from our website at www.cityofmadison.com/dcr, call our office to request a complaint packet, or come and visit one of our intake specialists.

PLEASE NOTE:

If you need materials in alternate formats or other accommodations in order to access this service, please contact the Department of Civil Rights, Equal Opportunities Division.

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FIGURING
OUT WHAT
YOU MAY BE
OWED AND
HOW YOU
CAN FIGHT
FOR IT**

