



HUMAN RIGHTS TRIBUNAL OF ONTARIO

B E T W E E N:

Christopher Hunter

Applicant

-and-

**His Majesty the King in right of Ontario as represented by the Ministry of the
Attorney General**

Respondent

DECISION

Adjudicator: Joseph Tascona

Date: July 21, 2023

File Number: 2018-32179-I

Citation: 2023 HRT0 1081

Indexed as: **Hunter v. HMKRO (Ministry of the Attorney General)**

APPEARANCES

Christopher Hunter, Applicant)	Self-represented
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)	
)	
His Majesty the King in right of Ontario as)	Katherine Ayers, Counsel
represented by the Ministry of the Attorney)	
General, Respondent)	
)	

INTRODUCTION

[1] On April 19, 2018, the applicant filed an Application alleging the respondent discriminated against him with respect to employment on the basis of family status contrary to the *Human Rights Code*, R.S.O. 1990 c. H. 19, as amended (the “Code”).

[2] By Case Assessment Direction (“CAD”) dated March 8, 2023, the Tribunal directed that a summary hearing be held to address whether the Application should be dismissed on the basis that there is no reasonable prospect that it will succeed pursuant to Rule 19A of the Tribunal’s Rules of Procedure.

[3] As explained more fully below, I find that the Application must be dismissed on the basis that it has no reasonable prospect of success under the *Code*. Even if I accept all the facts alleged by the applicant as true, the applicant has not been able to point to any evidence beyond his own suspicions that the respondent was treating him differently based on *Code* grounds.

SUMMARY HEARING PROCESS

[4] The summary hearing process is described in Rule 19A of the Tribunal’s Rules of Procedure (“Rules”) as well as the Tribunal’s Practice Direction on Summary Hearing Requests. The purpose of a summary hearing is to consider whether an Application should be dismissed in whole or in part because there is no reasonable prospect that the Application will succeed.

[5] The Tribunal cannot address allegations of unfairness that are unrelated to the *Code*. The Tribunal’s jurisdiction is limited to claims of discrimination that are linked to the protections set out in the *Code*.

[6] The test that is applied at the summary hearing stage is whether an Application has no reasonable prospect of success. At this stage, the Tribunal is not determining whether the applicant is telling the truth or assessing the impact of the treatment he experienced. The test of no reasonable prospect of success is determined by assuming

the applicant's version of events is true unless there is some clear evidence to the contrary or the evidence is not disputed by the applicant.

[7] However, and significantly, accepting the facts alleged by the applicant does not include accepting the applicant's assumptions about why he was treated unfairly. The purpose of the summary hearing is to determine whether the applicant can point to any information which tends to support his belief that he has experienced discrimination under the *Code*. The question that the Tribunal must decide at a summary hearing is whether there is likely to be any evidence, or any evidence that may be reasonably available to the applicant to connect the unfair treatment allegedly experienced by the applicant with the *Code's* protections.

[8] As the Tribunal indicated in *Forde v. Elementary Teachers' Federation of Ontario*, 2011 HRTO 1389 ("*Forde*"), for an Application to continue in the Tribunal's process following a summary hearing, there must be a basis beyond mere speculation and accusations to believe that an applicant could show a breach of the *Code*.

[9] Having set out the basic framework for determining whether an Application should be dismissed because it has no reasonable prospect of success, I now turn to the facts of this particular case.

FACTUAL BACKGROUND

[10] The applicant worked as a court reporter with the Ministry of the Attorney General at the Brampton Courthouse located at 7755 Hurontario Street in Brampton, Ontario. There are 52 courtrooms each with a court reporter who are required to come into the courtroom 30 minutes before the start of the scheduled proceeding to ensure the equipment is properly set up.

[11] The standard practice of scheduling court reporters at the Brampton courthouse begins at 8.30 a.m., 9.00 a.m. or 9.30 a.m. for court proceedings which start 30 minutes later respectively.

[12] The applicant states he needed to drop off his children at school for 9.20 a.m. and had an informal arrangement for the 2016-2017 school year to start work at 9.30 a.m. for a 10 a.m. court proceeding.

[13] In September/October 2017, the applicant alleges he was asked questions about this arrangement by management and directed to submit a formal request for accommodation. The applicant's request for accommodation was denied in February 2018, following a meeting with management and scheduled for shifts beginning at 9.30 a.m. for four weeks in order to make alternative arrangements but thereafter no guarantee was given that every shift would start at 9.30 a.m. for a court starting time of 10.00 a.m...

[14] The applicant alleges that he was scheduled for 9.00 a.m. on March 14, 2018 but did not report to work and on March 29, 2018, reported late and did not work that day.

[15] The applicant's position is essentially that the respondent's conduct evinced an intention to use constructive dismissal as a way to get him to accept the scheduling changes or leave their employment which occurred on March 29, 2018.

FINDINGS

[16] The applicant clearly disagrees with the treatment by the respondent involving the allegations about the level of support given and the loss of his employment by constructive dismissal. However, the applicant has not pointed to any evidence of any link between the respondent and the alleged unfair treatment and a *Code* ground.

[17] The applicant believes he had been unfairly treated and for the applicant this was an issue. However, there is no evidence the applicant has or can point to that the applicant's *Code* ground was a factor in the actions of the respondent.

[18] Despite being given the opportunity during the summary hearing to inform the Tribunal of evidence in his possession or that may be reasonably available at the merits hearing, the applicant could not point to any evidence to make the connection between

the alleged lack of support and the loss of employment with the respondent and his Code-enumerated ground.

[19] The Tribunal” does not have jurisdiction over general allegations of unfairness unrelated to the Code”: *Hay v. Ontario (Human Rights Tribunal)*, 2014 ONSC 2858; *Bello v. Toronto Transit Commission*, 2014 ONSC 5535. To fall within the Tribunal’s jurisdiction, “an Application must provide some factual basis beyond a bald assertion which link’s their ground(s) to the respondent’s actions and explains why they think that these actions are discriminatory in nature “: *Hay*, at para. 8.

[20] In *Mehedi v. Mondalez Bakery*, 2023 ONSC 1737, the Divisional Court decided the Tribunal’s decision to dismiss the Application was reasonable and cited *Hay and Xia v. Board of Governors of Lakehead University*, 2020 ONSC 6150 (Div. Ct.), which upheld the Tribunal’s dismissal of an Application for lack of jurisdiction on the basis that the applicant failed to establish a basis “beyond mere speculation and accusations” that the respondent’s conduct was discriminatorily linked to an enumerated ground.

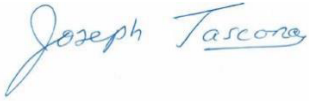
[21] As noted above, for an Application to advance to a full hearing on the merits, an applicant must be able to point to some evidence beyond his own suspicions, that could make out a link to the Code. The Tribunal has repeatedly said that an applicant’s belief, no matter how strongly held, is not evidence upon which the Tribunal might find that discrimination has occurred. See for example *Leong v. Ontario (Attorney General)*, 2014 HRTO 311.

[22] The applicant has not pointed to any evidence that he has or has reasonably available to him that could establish a connection between the respondent’s actions and his Code ground. These allegations have no reasonable prospect of success.

ORDER

[23] For the above reasons, the Application is dismissed.

Dated at Toronto this 21st day of July, 2023.

A handwritten signature in blue ink that reads "Joseph Tascona". The signature is written in a cursive style with a horizontal line underneath the name.

Joseph Tascona
Member