



Tribunals Ontario

Human Rights Tribunal of Ontario

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Tribunaux décisionnels Ontario

Tribunal des droits de la personne de l'Ontario

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HRTO FILE: **2022-49223-I**

August 3, 2022

Brenda Everall
via email: brendaeverall@gmail.com

Re: Brenda Everall v. Highland Shores Children's Aid Society, Michael Evans and Lisa Mascherin

Subject: Notice of Intent to Dismiss

An adjudicator has reviewed your Application, Human Rights Tribunal of Ontario (HRTO) file **2022-49223-I**, filed on April 26, 2022, and determined that as filed your Application appears to be outside the HRTO's jurisdiction for the following reasons:

- The Application fails to set out a coherent narrative that explains the particulars of the alleged discrimination and discloses a basis on which the applicant's allegations are connected to the Code and to the respondent(s). To be able to make a determination that the Application is within the Tribunal's jurisdiction, the HRTO requires a concise statement from the applicant that clearly describes each incident of alleged discrimination in chronological order, including the date, place and people involved. This statement must be no more than five (5) pages long.
- While your response to question #7 of the Application alleges that the last incident of discrimination you experienced occurred on **May 13, 2021**, it is either not clear what incident of discrimination is alleged to have occurred on this date or how the incident described as occurring on that date constitutes an incident of discrimination within the meaning of the Code. See for example *Miller v. Prudential Lifestyles Real Estate*, 2009 HRTO 1241 (CanLII); *Mafinezam v. University of Toronto*, 2010 HRTO 1495 (CanLII); and *Garrie v. Janus Joan Inc.*, 2012 HRTO 1955.

The HRTO does not have the power to consider claims filed more than one year after the last incident of discrimination or the last in a series of incidents of discrimination unless the delay in filing was incurred in good faith and no substantial prejudice will result to any person affected by the delay [s.34(1)]. You do not appear to have cited facts that constitute "good faith" within the meaning of the HRTO's case law. See for example *Thomas v. Toronto Transit Commission*, 2009 HRTO 1582 (CanLII) and see for example *Diler v. Cambridge Memorial Hospital*, 2010 HRTO 1224 (CanLII) for a discussion of "good faith".

- A review of the Application and the narrative setting out the incidents of alleged discrimination fails to identify any specific acts of discrimination within the meaning of the Code allegedly committed by the respondent(s). The Tribunal does not have jurisdiction over general allegations of unfairness unless the unfairness is connected, in whole or in part, to one of the grounds specifically set out in Part I of the Code (e.g. race, disability, sex, etc.); see, for example, *Forde v. Elementary Teachers' Federation of Ontario*, 2011 HRTO 1389).
- The Application does not allege that any of the rights of the applicant have been infringed and the Application is not made on behalf of another person or persons pursuant to s. 34(5) of the Code: see *Oliphant v. Ontario (Attorney General)*, 2009 HRTO 1902 (CanLII) and *Freitag v. Penetanguishene (Municipality)*, 2010 HRTO 1704 (CanLII).

Rule 13 of the HRTO's Rules of Procedure and Section 4.6 of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22 (the "SPPA") require the HRTO to send you this Notice setting out the adjudicator's jurisdictional concerns regarding your Application and informing you of your right to make written submissions to the HRTO about it.

You must provide written submissions responding to the issues identified above by September 2, 2022.

If you do not respond to this notice and file written submissions by the deadline noted, the HRTO will consider your failure to respond as an abandonment of your Application and dismiss your Application.

When the HRTO receives your submissions, an adjudicator will consider them and the HRTO will take one of the following actions:

- Dismiss your Application, in whole or in part, for one of the reasons described above;
- Allow your Application to continue on in the HRTO's process without making any decision as to whether it will ultimately succeed or not; or
- Request additional information.

Whatever the adjudicator decides, the HRTO will notify you in writing of the decision.

Before responding to this Notice, you may wish to review the provisions of the *Human Rights Code* noted above as well as the HRTO's Rules of Procedure and Guides to its processes, all available on the HRTO's website at <https://tribunalsontario.ca/hrto/contact/>. HRTO decisions can be accessed free of charge through the Canadian Legal Information Institute (CanLII) at www.canlii.org.

E-mail is the fastest way to get your submissions to the HRTO so the HRTO seeks to use it as much as possible. If you do not have the ability to send us your submissions by email, you can mail or courier them to the address on the letterhead of this Notice. Please clearly write your name and your HRTO file number on all correspondence and any other documents you file with the HRTO.

HRTO staff cannot provide legal advice or assist you in completing forms or making submissions to the HRTO. If you need legal assistance or advice, contact the Human Rights Legal Support Centre at 180 Dundas Street West, 8th Floor, Toronto, ON M7A 0A1 or by phone toll free at 1-866-625-5179, in Toronto 416-597-4900 or TTY toll free at 1-866-612-8627 or TTY in Toronto 416-597-4903, Fax: 416-597-4901, toll free 1-866-625-5180. Website: www.hrlsc.on.ca.

Sincerely,

Office of the Registrar
Human Rights Tribunal of Ontario