

HUMAN RIGHTS COMPLAINT

Steps in an Application

The timing of an application to the Human Rights Tribunal of Ontario is difficult to predict. It depends on many things, including actions the Respondent takes, Tribunal schedules, and decisions you make. An application can take up to two years or longer to settle or go to hearing.

Most applications go through the same basic steps, although not always in the same order. The steps listed here are the main steps that occur in an application. They will give you a general idea of what to expect.

1. Gathering the Facts

With my client's help, I gather all the available facts concerning the claim, including interviewing and taking statements from witnesses. I sometimes hire investigators or experts to help me, so this step can involve expenses.

2. The Pleadings

I begin the application by preparing the necessary forms and *filing* them with the Tribunal. The Tribunal will send a copy of the application to the Respondent once it has been accepted for processing. The Tribunal removes information about the applicant's witnesses from the forms before sending them to the Employer. The Respondent must file a response within thirty-five (35) days of the date it received the application forms. The Response must set out the Respondent's version of events in detail. The Tribunal sends the Response to the Applicant. The Applicant may file a Reply, within fourteen days of receiving the Response, dealing with any new matters raised by the Respondent. The Applicant must deliver a copy of its Reply to the Respondent and to the Trade Union.

3. Mediation

After the pleadings have been filed, the Tribunal schedules a mediation session with the Parties in an effort to promote settlement. A settlement is an agreement between the parties which sets out how they will resolve the matter. The mediation is conducted by one of the arbitrators (known as a Vice Chair) who hears cases at the Tribunal. The same Vice Chair will not hear the case if it goes to hearing. If the claim is settled, a hearing will not take place. All discussions at mediation are confidential.

4. Production of Documents

Not later than twenty-one (21) after the Tribunal sends out a notice of hearing, each party must deliver to every other party a copy of all the arguably relevant documents in their possession. At least forty-five (45) days prior to the start of the first day of hearing, each party must deliver to every other party, and file with the Tribunal, a list of the documents that they intend to rely on as

well as copies of the documents if they have not already been produced. At the same time, the Parties must deliver to each other, and file with the Tribunal, a witness list which contains the name of every witness and sets out a brief summary of their expected evidence.

5. Orders During Proceeding

After I file the application, but before the Tribunal schedules a hearing on the merits of the application, we or the Respondent's lawyers sometimes need to ask the Tribunal to decide certain preliminary matters. For example, we might ask the Tribunal to order that the Respondent show us a relevant document that the Respondent would rather not let us see. Also the Respondent might ask the Tribunal to order us to provide more details about an allegation listed in the Application. If the order being sought is contested by the other side, the Tribunal normally schedules a telephone conference to hear oral submissions. The Tribunal can also make a decision based on written submissions.

6. The Hearing

The Tribunal usually schedules two or three consecutive days of hearing to start. If the case is not completed in that time, additional dates will be scheduled on days when the parties, the lawyers and the Vice Chair are all available. These continuation dates are typically spaced out over a period of months. The Applicant calls its witnesses first and the Respondent has an opportunity to cross examine those witnesses. Once all the Applicant's witnesses have testified, the Respondent must call its witnesses. In rare cases, the Applicant may be permitted to call additional witnesses in reply. Once all the evidence is in, the parties make their submissions as to how the Vice Chair should decide the case based on the evidence. The Vice Chair does not usually issue a decision at the hearing. Normally, the Vice Chair issues a decision weeks or months after the last day of hearing and the Tribunal sends the decision out by mail.