



HUMAN RIGHTS TRIBUNAL OF ONTARIO

B E T W E E N:

Enver Kokoshi

Applicant

-and-

**Datsun Property Management Ltd., Slobodan Pavloski, Delores Evans, Charles
Fernandez, and York Condominium Corporation No. 414**

Respondents

INTERIM DECISION

Adjudicator: Josée Bouchard
Date: July 18, 2019
File Number: 2019-36083-I
Citation: 2019 HRTO 1072
Indexed as: **Kokoshi v. Datsun Property Management Ltd.**

WRITTEN SUBMISSIONS

Enver Kokoshi, Applicant)
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Self-represented

Datsun Property Management Ltd.,)
Slobodan Pavloski, Delores Evans, Charles)
Fernandez, and York Condominium)
Corporation No. 414, Respondents)
)
)

Paul Robson, Counsel

[1] This Interim Decision addresses whether the Application should be deferred pending the outcome of claims advanced in the Ontario Superior Court of Justice No. CV-19-00619114-0000 and CV-19-616432 (“the civil claims”).

[2] The applicant filed an Application alleging discrimination with respect to goods, services and facilities because of creed and association with a person identified by a ground listed in the *Code* contrary to the *Human Rights Code*, R.S.O. 1990, c. H.19, as amended (the “*Code*”). Specifically, the applicant alleged that officers attended to his home on July 16, 2018 because they had received information that he had breached a condition of his residence. The applicant alleges that the officers bullied and laughed and him.

[3] The respondents argue that the civil claims, which were filed before the Application, will lead to the Tribunal engaging in substantially the same fact finding mission as a result of the allegations made by the applicant in one or both of the civil claims.

[4] The applicant opposes the request to defer because the Application is only about the abuse of his human rights and discrimination.

[5] The civil claims allege that the applicant and another resident of the condominium building shouted a number of defamatory and false statements during the Annual General Meeting of the York Condominium Corporation No. 414 respondent and published false and defamatory statements. The second civil claim alleges that the applicant viciously assaulted another resident as she was entering the building.

FINDINGS

[6] The Tribunal may defer consideration of an application on such terms as it may determine, on its own initiative or at the request of any party (Rule 14.1 of the Tribunal’s Rules of Procedure). Deferral of an application seeks to ensure that proceedings

dealing with the same facts or issues do not run concurrently, thereby raising the possibility of inconsistent decisions on facts or law.

[7] The Tribunal generally considers the following factors in determining whether to defer consideration of an application: the subject matter of the other proceeding, the nature of the other proceeding; the type of remedies available in the other proceeding; and whether it would be fair overall to the parties to defer the application having regard to the status of each proceeding and the steps that have been taken to pursue them. See *Baghdassarians v. 674469 Ontario*, 2008 HRTO 404.

[8] In this case, there is substantial overlap between the facts and human rights issues raised in the Application and those raised in the civil claims. Therefore, I find it appropriate to defer consideration of the Application pending the conclusion of the Ontario Superior Court of Justice claim Nos. CV-19-00619114-0000 and CV-19-616432.

[9] The applicant may seek to re-activate his deferred Application at the conclusion of the civil claims proceedings. However, the applicant should take note that, under s. 45.1 of the *Code*, the Tribunal has the power to dismiss Applications if the substance of an Application has been appropriately dealt with in another proceeding.

[10] Rules 14.3 and 14.4 of the Tribunal's Rules of Procedure address how the Application may be brought back before the Tribunal following conclusion of another proceeding. It should be noted that, a party wishing to proceed with an application must file a Request for Order During Proceedings (Form 10) no later than **60 days** after the conclusion of the other proceeding. The Tribunal's Rules of Procedure and Forms can be found on its website at www.sjto.gov.on.ca/hrto/.

ORDER

[11] For the reasons set out above, the Tribunal will defer consideration of the Application pending the outcome of the proceedings before the Ontario Superior Court of Justice, claim Nos. CV-19-00619114-0000 and CV-19-616432.

Dated at Toronto, this 18th day of July, 2019.

“Signed by”

Josée Bouchard
Vice-chair