



HUMAN RIGHTS TRIBUNAL OF ONTARIO

B E T W E E N:

Christopher Mills

Applicant

-and-

**Megan Mackey, Antoni Casalinuovo, Megan Malloy, Patricia Elisa, Andrea Lusk,
Christine Vanderschoot, Mahnaz Mashouri, Cynthia Petersen, Judy Kondrat,
Mark Willis O'Connor, Elia and Associates, Gardiner Miller Arnold LLP,
Jordan Battista LLP,
and the Human Rights Legal Support Centre**

Respondents

INTERIM DECISION

Adjudicator: Douglas Sanderson

Date: May 26, 2020

File Number: 2017-29768-I

Citation: 2020 HRTO 436

Indexed as: **Mills v. Mackey**

WRITTEN SUBMISSIONS

Christopher Mills, Applicant)	
)	Self-represented
)	
)	

[1] This is an Application filed on September 26, 2017 under s. 34 of the *Human Rights Code*, R.S.O. 1990, c. H.19, as amended (the “Code”), alleging discrimination with respect to goods, services and facilities because of disability, association with a person identified by a prohibited ground of discrimination.

[2] On July 20, 2018, the Tribunal issued a Notice of Intent to Dismiss (the “Notice”) because it appeared that the Application was outside the Tribunal’s jurisdiction for the following reasons:

- while your response to question #7 of the Application alleges that the last incident of discrimination you experienced occurred on [date from question #7], a review of your Application indicates that 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”.

- the issues raised relate to the conduct of a lawyer representing a party in another legal proceeding. The HRTO has stated that the relationship between a lawyer and an opposing party is not covered by the Code: *Belso v. York Region Police*, 2009 HRTO 757 (CanLII); *Cooper v. Pinkofskys*, 2008 HRTO 390 (CanLII).
- 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).

[3] In the Notice, the Tribunal directed the applicant to file submission responding to the issues identified in the Notice by August 17, 2018. The applicant filed submission on August 17, 2018. Regrettably, the Tribunal has been delayed in addressing the submissions.

ANALYSIS AND DECISION

[4] An application will only be dismissed at a preliminary stage if it is “plain and obvious” on the face of the application that it does not fall within the Tribunal’s jurisdiction. See *Masood v. Bruce Power*, 2008 HRTO 381.

[5] The original context of this Application is a dispute between the applicant and the condominium corporation where he lives. The respondent Deacon Spears Fedson & Montizambert (“DSFM”) is the law firm that represented the condominium corporation. Michael Spears and Justin McClarty are lawyers who worked for DSFM at the material time. With the exception of Cynthia Petersen, the other respondents are lawyers, law firms and the Human Rights Legal Support Centre, each of whom the applicant retained or wished to retain to assist him in his dispute with the condominium corporation and a family law matter. Ms. Petersen was Discrimination and Harassment Counsel with the Law Society of Ontario with whom the applicant worked regarding his concerns about the conduct of the lawyers he had previously worked with, Christine Vanderschoot, in particular.

[6] The Tribunal does not have jurisdiction to inquire into claims of discrimination about every relationship or interaction, but rather only those that properly fall within the five social areas of the *Code*. Tribunal jurisprudence has consistently stated that the *Code* does not cover relationships between a lawyer and an opposing party. See *Marsden v. Board of Directors of the Halton Condominium Corporation No. 41*, 2013 HRTO 1462 and *Richardson v. Condominium Management Group*, 2016 HRTO 1218. The relationship between the applicant and DSFM, and the lawyers working for DSFM, is one of a lawyer and opposing party. Accordingly, there is no service relationship between the applicant DSFM, Michael Spears and Justin McClarty and I find that it is

plain and obvious that the Tribunal has no jurisdiction to deal with the applicant's complaint against DSFM, Michael Spears and Justin McClarty. The Application is dismissed as against DSFM, Michael Spears and Justin McClarty and the style of cause is amended accordingly.

[7] With respect to the other respondents, the submissions filed by the applicant provide some detail explaining how he alleges that they discriminated against him, in particular by failing to accommodate his disability-related needs. In these circumstances, I cannot find that it is plain and obvious that these allegations are outside the Tribunal's jurisdiction. This is not a final decision with respect to the Tribunal's jurisdiction to deal with the Application.

ORDER

[8] The Tribunal orders as follows:

1. The Application is dismissed as against DSFM, Michael Spears and Justin McClarty and the style of cause amended accordingly; and,
2. The Application shall continue as against the remaining respondents and the Tribunal shall deliver the Application to the remaining respondents, along with a Notice of Application.

Dated at Toronto, this 26th day of May, 2020.

"Signed by"

Douglas Sanderson
Vice-chair