

I have gleaned the following insights from the Human Rights Legal Support Centre website. I highlighted the sections I believe apply to my case.

In determining the extent of the legal services that the Centre will offer to applicant, the Centre will consider: (a) the nature of the application; (b) the capacity of the applicant; (c) the nature of the respondent; (d) the existence of any intervenor; and (e) any other additional factors the Centre may consider relevant.

Considerations (a) to (d) above are evaluated by the Centre in respect of the following factors:

(A) The Application

1. The proposed application falls **within**/outside the jurisdiction of the Tribunal.
2. The proposed application **raises**/does not raise a ground of discrimination recognized by the Code and/or by applicable human rights jurisprudence.
3. There appears to **be**/not to be a *prima facie* case to support the proposed application.
4. The proposed application **raises**/does not raise complex legal or factual issues that require legal representation.
5. The proposed application: (a) will/will not require particularly significant staff resources; (b) is expected/is not expected to impact on the Centre's ability to represent other applicants; and (c) **raises**/does not raise issues that could have a broad positive or negative impact on other disadvantaged groups designated under the Code including other applicants or potential applicants for the Centre's services.
6. The proposed application is outside the one (1) year period for filing and there does not appear to be a significant public interest aspect to the claim.

(B) The Applicant

1. In light of the nature of the proposed application and the remedies sought, the applicant **would** face challenges in representing **him/herself** before the Tribunal. These challenges may include: (a) lack of fluency in English/French; (b) functional literacy level; (c) issues related to a disability (including the need for accommodation of Code-related needs by the Centre); (d) issues related to poverty (such as access to telephone, affordable transportation); (e) **unfamiliarity with legal processes**; (f) absence of other supports in daily living; (g) challenges created by recent arrival in Canada, refugee status and related issues; and (h) **marginalization associated with membership in a designated group recognized by the Code** (e.g. youth; senior; member of a **racialized community**).
2. The applicant is/**is not** able to self-represent in the Tribunal's process.

Consideration shall be given to: (a) nature of the proposed application; (b) circumstances affecting the applicant, and (c) nature of the remedies sought.

3. The applicant **lacks**/has access to other legal support in preparing their application or **does not** have reasonable access to legal support through a prepaid legal services plan, private resources, advocacy organization, Commission, etc.
4. The applicant **is**/is not a member of a historically disadvantaged group or a marginalized group.

(C) The Respondent

1. The respondent **is**/is not well-resourced.
2. The respondent **is**/is not expected to have legal representation.

(D) Intervenors

1. The Commission has indicated that it will/will not apply to intervene in support of the application.
2. There are/are not other organizations or individuals that have indicated an interest in intervening for or against the proposed application.

In general, the Centre will give priority to applicants with meritorious claims who would face barriers to self-representing, **especially where the application raises public interest issues or complex factual or legal issues** or could have a broad impact on other claims under the Human Rights Code.

RACISM & RACIAL DISCRIMINATION: Your Rights and Responsibilities

Ontario's Human Rights Code

The Ontario *Human Rights Code* (the “Code”) provides for equal rights and opportunities, and freedom from discrimination. The *Code* recognizes the dignity and worth of every person in Ontario. **It applies to the areas of employment**, housing, facilities and services, contracts, and membership in unions, trade or professional associations.

Under the *Code*, every person has the right to be free from racial discrimination and harassment. **You should not be treated differently because of your race or other related grounds, such as your ancestry, ethnicity, religion or place of origin**, in areas covered by the *Code* such as **while you are at work**, at school, trying to rent an apartment, or eating a meal in a restaurant.

Racism and Racial Discrimination

Canada, its provinces and territories have strong human rights laws and systems in place to address discrimination. At the same time, we also have a legacy of racism – particularly towards Aboriginal persons, but to other groups as well including African, Chinese, Japanese, South Asian, **Jewish** and Muslim Canadians – a legacy that profoundly permeates our systems and structures to this day, affecting the lives of not only racialized persons, but also all people in Canada.

The Ontario Human Rights Commission describes communities facing racism as “racialized.” This is because society artificially constructs the idea of “race” based on geographic, historical, political, economic, social and cultural factors, as well as physical traits, that have no justification for notions of racial superiority or racial prejudice.

Racism is a broader experience and practice than racial discrimination. It is an ideology that either directly or indirectly asserts that one group is inherently superior to others. **Racism can be openly displayed in racial jokes and slurs** or hate crimes, **but can also be more deeply rooted in attitudes, values and stereotypical beliefs**. In some cases, these are unconsciously held and have evolved over time, becoming embedded in systems and institutions, **and also associated with the dominant group's power and privilege**.

Racial harassment is a form of discrimination. It includes comments, jokes, name-calling, display of pictures or behaviour that insults you, **offends you or puts you down because of your race and other related grounds**.

Racial discrimination can often be very subtle, such as being assigned to less desirable jobs, or being denied mentoring and development opportunities. **It might also mean being subjected to different management standards than other workers**, being denied an apartment because you appear to have Aboriginal ancestry, **or facing unfair scrutiny** by police while driving or by security staff at a shopping mall.

Systemic Racial Discrimination

Racial discrimination can arise on a systemic or institutional level from everyday rules and structures that are not consciously intended or designed to discriminate. **Patterns of behaviour**, policies or practices **that are part of the structures of an organization** or an entire sector **can create or perpetuate disadvantage for racialized persons**. Organizations should be aware that their “normal way of doing things” might be having a negative impact on racialized persons.

When is it Harassment?

Racial harassment can have a bad effect on, or “poison”, the places where you live, **work** or receive services. Even if the harassment is not directed at you, it can still poison the environment for you and others.

How do you know if the environment is poisoned? One way is to look at the effect of negative comments or actions. For instance, if **certain racial slurs or actions make you or others feel uncomfortable in the workplace or fearful of returning to work, this could indicate that the work environment is poisoned.**

Is it My Responsibility to Make it Stop?

Although you can try to make the harassment stop, it is not your responsibility alone. **You might feel that saying or doing something might put you, your job, or your housing at risk.** If this is the case, go to someone else in authority.

Employment

You cannot be discriminated against in getting and keeping a job, promotion, or a raise. You cannot be discriminated against in your working conditions or in workplace discipline. You have the right to be free of harassment because of a Code ground in the workplace.

Respondents

You should get legal advice if you have any questions on who the Respondent should be.

Q: Who should I name as my respondents?

The Effect on You

Explain how the discrimination affected you (financial, social, health, or other). For example:

- If you **lost money or income because of the discrimination**, give details.
- If your **emotional or mental health suffered**, describe this problem and how it affected you.
- If you **lost an opportunity** (such as a promotion or new apartment) **because of the discrimination**, explain how.

20. Other information the Tribunal should know

This is your opportunity to tell the Tribunal any other information that you believe is important but did not fit into any other question on the Form. **For example, it may be important to tell the Tribunal if you are aware of other similar or related applications filed against the same Respondent.**

How does the respondent find out about the application?

The HRTO will send **each respondent** a copy of the application as soon as it is accepted for processing. In most cases, once an application is accepted for processing it will be sent to the respondent within a week. The HRTO will remove information about the applicant's witnesses from the application form. If the applicant has asked to be contacted through an alternate contact, the applicant's personal contact information will also be removed.

How does the respondent answer the application?

Each respondent must use the HRTO's response form (Form 2) to respond to the issues raised in the application and will have thirty-five (35) days to complete and return the response form to the HRTO.

Questions on the response form include:

Did the applicant tell you about the human rights concern?

Did you investigate?

Do you have a human rights policy?

What is your response to what the applicant says happened and the applicant's proposed remedy?

The respondent must also list the important witnesses and documents that they have on-hand. The respondent will be asked to explain very briefly why each witness can help prove their case (for example, if a proposed witness was there when an incident happened).

The respondent will also have the opportunity to list relevant documents that other people have and that they need to prepare their case.

C) What was the date of the last event or incident of discrimination?

In most cases, you must file your application within one year of the date on which the event happened, or if there was a series of events, within one year of the last event. **The Tribunal may extend this time if you have a good reason for filing late**, such as being in the hospital or jail, or **not finding out about the discrimination until more than a year had passed**.

8. What Happened

Tell the Tribunal what happened to you that makes you believe that you were discriminated against. It is important that you start from the beginning. Explain each event in detail. For each event, include:

- what happened
- who was involved
- when it happened (day, month, year)
- where it happened.

If your Application is about a policy or practice that has a negative impact on you, be sure to describe the policy or practice and describe how its impact on you is related to a Code ground.

It may not be possible for you raise new incidents of discrimination at the hearing if they are not mentioned in the Application. It is therefore very important to include every incident of discrimination and every fact and issue you wish to speak about in the hearing or the mediation.

You can tell your story using numbered paragraphs or in point form. We encourage you to tell your story in chronological order. Start from the beginning and end on the date of the last incident. Be sure to tell us of every incident and explain each one.

Provide as much detail as possible, tell us exactly what happened, who was there when it happened, when it happened and where it happened. Also, if the way you were treated is different from the way other people are treated be sure to explain that as well.

The Effect on You

9. How the Events you Described Affected You

Explain how the discrimination affected you (financial, social, health, or other). For example:

- If you **lost** money or **income because of the discrimination**, give details.
- If your **emotional or mental health suffered**, describe this problem and how it affected you.
- If you **lost an opportunity** (such as a promotion or new apartment) **because of the discrimination**, explain how.

20. Other information the Tribunal should know

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Protecting human rights is everyone's responsibility. We all have an obligation to respect each other's human rights and to speak out against discrimination and harassment for ourselves and for others.

What is discrimination? To treat someone unfairly, deny a benefit, exclude, impose obligations, disadvantage, etc. because of a characteristic or perceived characteristic under the Code. **Intent is not necessary to prove discrimination.**

Discrimination can happen even if the employer does not intend to discriminate.

What is harassment? Harassment is a form of discrimination. It includes offensive behaviour, comments or insults based on one or more of the prohibited grounds of discrimination in the Code. Harassment also occurs when people say something that they know will make you feel uncomfortable.

What else does the Code protect me from? If you are treated differently because you asserted your rights under the Code, that is considered "reprisal." The Code protects you from reprisal or threats of reprisal.

The Human Rights Legal Support Centre may be able to help you with your application. The Centre's 22 lawyers and staff are human rights specialists who offer free legal advice and services. They are independent of the Tribunal and arm's-length from the government. They may be able to: give you advice about your case, help you complete your application, communicate on your behalf with the person(s) or organization(s) you filed against and with the Tribunal, and possibly represent you in mediation or a hearing.

The application: You must file your application within one year of the date on which the discrimination occurred. If there was a series of discriminatory events, you must file within one year of the last event.

What can the Tribunal order? If the Tribunal finds that you were discriminated against or harassed, they can order the Respondent: (1) to pay you "general damages" for the loss of income, loss of dignity,

feelings and self-respect, (2) to order that you get your job back, (3) to issue public interest remedies, such as requiring employers or government to change their procedures or implement human rights policies, or requiring the Respondent to get human rights training. You may ask for such remedies in your application.

The Tribunal may refuse or dismiss your application where you have already filed a claim through another means, such as civil court or a union grievance.

The Human Rights Legal Support Centre (Centre) has developed the following guideline for its consideration in making determinations on the provision of legal services to persons who are potential applicants to the Human Rights Tribunal of Ontario (Tribunal).

This guideline recognizes that each applicant for legal support services will receive initial legal services from the Centre, including advice on whether or not their claim would fall within the jurisdiction of the Tribunal.

However, due to the significant volume of inquiries and the demand for legal support services, the Centre acknowledges that it will not be able to provide all applicants with complete legal services up to and including full representation at a hearing before the Tribunal.

In order to best allocate its limited resources, the Centre reserves the right to decide, with respect to each applicant, the level of legal support services that will be provided, to be determined on a case by case basis, after consideration of the factors set out below.

In general, the Centre will give priority to applicants with meritorious claims who would face barriers to self-representing, **especially where the application raises public interest issues or complex factual or legal issues** or could have a broad impact on other claims under the Human Rights Code.

“legal support services” includes the initial intake procedure and interview, summary information and advice, assistance with application completion, assistance with preparing for mediation, representation at mediation before the Tribunal and representation at hearings before the Tribunal