



HUMAN RIGHTS TRIBUNAL OF ONTARIO

BETWEEN:

Hana Abdul

Applicant

-and-

York University

Respondent

AND BETWEEN:

Hana Abdul

Applicant

-and-

University of Waterloo

Respondent

DECISION

Adjudicator: Brian Eyolfson
Date: October 13, 2011
File Numbers: 2010-07525-I; 2011-07830-I
Citation: 2011 HRTO 1851
Indexed as: **Abdul v. York University**

APPEARANCES

Hana Abdul, Applicant)	Self-represented
)	
)	
York University, University of Waterloo, Respondent)	Catherine L Peters, Counsel
)	
)	

INTRODUCTION

[1] This Decision is in respect of two Applications filed by the applicant, under s. 34 of Part IV of the *Human Rights Code*, R.S.O. 1990, c. H.19 as amended (the “Code”), following a summary hearing.

[2] In the Application against York University (2010-07525-I), the applicant alleges discrimination in employment on the basis of race, ancestry and ethnic origin. She states that she applied for a job with the respondent and was initially told that they were still waiting for more resumes. She later learned that the position was filled and that her resume had not been forwarded to those responsible for hiring.

[3] In the Application against University of Waterloo (2011-07830-I), the applicant alleges discrimination on the basis of race, colour, ancestry, place of origin, citizenship, ethnic origin, and age. She states that she applied for a job and was not granted an interview. The applicant refers to her experience and ethnicity, and states that she finds it “strange”.

PROCEDURAL BACKGROUND

[4] In a Case Assessment Direction (“CAD”) dated February 23, 2011, the Tribunal directed that a summary hearing be held with respect to the Application against York University. That CAD was replaced by a CAD dated March 16, 2011, directing that a joint summary hearing be held with respect to the Applications against York University and University of Waterloo, and three other Applications against three different respondents, each alleging that the respondent failed to grant the applicant an interview for a position for which she applied and was qualified. With respect to the applicant’s five Applications, the CAD dated March 16, 2011 stated as follows:

The Applications do not appear to provide a factual or evidentiary basis for the applicant’s belief that she was discriminated against in the respondents’ hiring processes. The applicant’s allegations of discrimination are speculative and she seems to want the Tribunal to conduct an investigation into her suspicions. The Tribunal’s role is to

decide disputes between the parties, not to investigate to determine whether bare allegations or suspicions may be well-founded.

[5] The CAD also referred to Rules 19A.1 and 19A.2 of the Tribunal's Rules of Procedure, which state as follows:

19A.1 The Tribunal may hold a summary hearing, on its own initiative or at the request of a party, on the question of whether an Application should be dismissed in whole or in part on the basis that there is no reasonable prospect that the Application or part of the Application will succeed.

19A.2 Rules 16 and 17 do not apply to summary hearings. The Tribunal may give directions about steps the parties must take prior to the summary hearing, including disclosure or witness statements.

[6] In the CAD, the Tribunal provided the following directions to the applicant:

The applicant will make her argument first. She shall be prepared to explain how she can prove, on a balance of probabilities, that she experienced discrimination with respect to employment on the basis of the grounds cited, and the evidence she would use to establish her allegations.

[7] In the CAD, the respondents were directed to provide to the applicant and the Tribunal a brief explanation as to why the applicant was not provided an interview, and a copy of the applicant's job application documents.

[8] After the Tribunal issued its March 16, 2011 CAD, the applicant withdrew her Applications against the respondents other than York University and University of Waterloo.

[9] On April 15, 2011, the remaining respondents, York University and University of Waterloo, provided information in response to the Tribunal's March 16, 2011 CAD. Both respondents submitted that the sole reason that the applicant was not invited for an interview was because her job application documents did not demonstrate that she met the posted requirements for the position. The respondents provided specific examples,

including that, although the positions required excellent written communication skills, there were numerous spelling and grammatical errors in the application packages.

The applicant's Requests for Interim Remedy and to Expedite Proceedings

[10] The summary hearing was held on June 20, 2011, and the Tribunal reserved its decision. Subsequently, the applicant delivered, and filed on August 10, 2011, a Request for Interim Remedy. On August 11, 2011, the applicant delivered and filed a Request to Expedite. On August 15, 2011, the applicant delivered and filed a "Statement of Declarations" in support of her Request to Expedite, wherein she stated that she "has completed the application process, addressed a number of issues and a few facts at the June 20th Summary Hearing and has completed Form 14."

[11] Having reviewed both the applicant's Request for Interim Remedy and Request to Expedite, there is clearly no basis for either Request. The applicant has not specified what she is seeking in either Request. With respect to the requirement in Rule 23.3(c) of the Tribunal's Rules, that a Request for an Interim Remedy include submissions with respect to the merits of the Application, the balance of harm or convenience, and why an interim remedy would be just and appropriate, the applicant submits that she knows all of her Applications have merit, she "will not harm anyone" if the request is denied, and the summary hearing "was fun" and she "learned a lot." With respect to the requirement in Rule 21.2(c)(i) of the Tribunal's Rules that a Request to Expedite include submissions that explain why there are urgent circumstances, the applicant submits that the circumstances are not urgent.

[12] The applicant's Requests are dismissed.

REASONABLE PROSPECT OF SUCCESS

[13] In *Dabic v. Windsor Police Service*, 2010 HRTO 1994, the Tribunal made the following comments about summary hearings, at paras. 7-10:

A summary hearing is generally ordered at an early stage in the process. In some cases, the respondent may not have been required to provide a response. In others, the respondent may have responded but disclosure of all arguably relevant documents and the preparation of witness statements, which generally occur following the Notice of Hearing, will not yet have happened.

In some cases, the issue at the summary hearing may be whether, assuming all the allegations in the application to be true, it has a reasonable prospect of success. In these cases, the focus will generally be on the legal analysis and whether what the applicant alleges may be reasonably considered to amount to a *Code* violation.

In other cases, the focus of the summary hearing may be on whether there is a reasonable prospect that the applicant can prove, on a balance of probabilities, that his or her *Code* rights were violated. Often, such cases will deal with whether the applicant can show a link between an event and the grounds upon which he or she makes the claim. The issue will be whether there is a reasonable prospect that evidence the applicant has or that is reasonably available to him or her can show a link between the event and the alleged prohibited ground.

In considering what evidence is reasonably available to the applicant, the Tribunal must be attentive to the fact that in some cases of alleged discrimination, information about the reasons for the actions taken by a respondent are within the sole knowledge of the respondent. Evidence about the reasons for actions taken by a respondent may sometimes come through the disclosure process and through cross-examination of the people involved. The Tribunal must consider whether there is a reasonable prospect that such evidence may lead to a finding of discrimination. However, when there is no reasonable prospect that any such evidence could allow the applicant to prove his or her case on a balance of probabilities, the application must be dismissed following the summary hearing.

[14] At the summary hearing, with respect to the Application against York University, the applicant expressed concerns relating to information in job descriptions or postings, including an equity statement; however, it was not clear what the applicant's particular concerns were. She also seemed to take issue with the respondent, York University, raising spelling and grammatical mistakes, stating that "no one was tested."

[15] With respect to the Application against University of Waterloo, the applicant asserted that the job posting she applied to was longer than the one provided by the

University. Again, she raised concerns about spelling and grammar and the lack of testing. She also raised general concerns about requirements in the job posting, and equity.

[16] In the circumstances, I find that there is no reasonable prospect that either Application will succeed.

[17] The Tribunal does not have the power to deal with general allegations of unfairness. For an Application to continue in the Tribunal's process there must be a basis beyond mere speculation and accusations to believe that an applicant could show discrimination on the basis of one of the grounds alleged in the *Code*. See *Forde v. Elementary Teachers' Federation of Ontario*, 2011 HRTO 1389, at para. 17.

[18] In my view, there is no reasonable prospect that the applicant can prove, on a balance of probabilities, that her *Code* rights were violated by either respondent. The applicant's allegations are merely speculative, and there does not appear to be anything in the materials, including the applicant's job application documents, that would support the applicant's allegations. The applicant has not demonstrated that there is a reasonable prospect that evidence she has, or that is reasonably available to her, can show a link between either respondent's failure to grant her an interview and any *Code* grounds.

ORDER

[19] The applicant's Requests and the Applications are dismissed.

Dated at Toronto this 13th day of October, 2011.

"signed by"
Brian Eyolfson
Vice-chair