



Human Rights Tribunal of Ontario

HUMAN RIGHTS TRIBUNAL OF ONTARIO

NOTICE TO THE COMMUNITY

Tribunal's Initiative for Managing Transition Application Caseload

This Notice to the Community explains how the Tribunal proposes to meet its responsibility under the Transition Provisions of the *Human Rights Code Amendment Act* to deal with human rights complaints that were filed at the Ontario Human Rights Commission ("the Commission") before June 30, 2008.

This Notice will be of particular interest to:

- **Any individual who filed a complaint at the Commission prior to June 30, 2008**, and the complaint has not been finally dealt with by the Commission, abandoned in accordance with section 53(3), withdrawn, or settled by December 31, 2008 ;
- **Any person who has been named as a respondent in a complaint filed with the Commission prior to June 30, 2008**, and the complaint has not been finally dealt with by the Commission, abandoned in accordance with section 53(3), withdrawn, or settled by December 31, 2008;
- **Any other person who may be affected by, or interested in a complaint filed with the Commission prior to June 30, 2008**, and the complaint has not been finally dealt with by the Commission, abandoned in accordance with section 53(3), withdrawn, or settled by December 31, 2008.

This Notice does not address:

- Complaints that have been referred to the Tribunal by the Commission before December 31, 2008;

- Applications filed under section 53(3) between June 30, 2008 and December 31, 2008;
- Applications filed directly with the Tribunal under sections 34 or 35 of the amended *Code* after June 30, 2008.

Overview

On June 30, 2008, the *Human Rights Amendment Act* came into force. One of the major changes of the amended *Code* is that individuals who wish to make a claim of discrimination must file an application directly with the Human Rights Tribunal of Ontario. The Ontario Human Rights Commission no longer receives complaints from individuals.

Complaints that were filed with the Commission prior to June 30, 2008 were “continued” for a period of 6 months. Section 53(2) provides that the Commission retained all its powers to deal with a complaint for a period of 6 months ending on December 31, 2008.

Section 53(3) of the *Code* provided the option of “abandoning” a complaint that was continued at the Commission, and filing an Application with the Tribunal. The Section 53(3) option, which provided a highly expeditious process for resolving complaints, was only available between June 30, 2008 and December 31, 2008. **If you have already filed an Application under section 53(3) between June 30, 2008 and December 31, 2008 you do not need to file another Application under section 53(5). The Application will continue to be dealt with under the procedure for section 53(3) Applications.**

If the Commission did not finally deal with the merits of a complaint (and it was not settled or withdrawn or abandoned in accordance with section 53(3)) by January 1, 2009, an individual with a complaint at the Commission may make an application to the Tribunal, based on the same subject-matter as the **complaint**, within a further 6 month period. **In other words, an individual whose complaint was not finally dealt with by the Commission, withdrawn or settled or abandoned under section 53(3) by January 1, 2009 has until**

June 30, 2009 to file an application under section 53(5) with the Tribunal if they want their claim of discrimination dealt with.

Applications Filed Under Section 53(5): Applications Filed Between January 1, 2009 and June 30, 2009.

Individuals that did not choose to file an application under the section 53(3) expedited process can choose to file an application under Section 53(5) between January 1, 2009 and June 30, 2009, if their complaint has not been finally dealt with by the Commission, referred to the Tribunal, withdrawn or settled.

If you have already filed an application under the section 53(3) process you cannot “switch” to the 53(5) process.

The process for dealing with applications under section 53(5) of the Code is set out in the Tribunal’s *Rules of Procedure for Transitional Applications under Sections 53(3) and 53(5) of the Human Rights Code*. Additional information is provided in the Guide to section 53(5) Applications. Both of these documents are available on the Tribunal’s website.

Summary

The *Human Rights Code* requires the Tribunal to deal with all applications fairly, justly and expeditiously. The Code provides that the Tribunal may not finally determine an application that is within its jurisdiction without first giving the parties the opportunity to make oral submissions, and also requires the Tribunal to provide written reasons for its final decisions. The Tribunal’s Core Values also provide that its process must be accessible and transparent.

The Tribunal is committed to meeting its mandate, and to deal with each application brought under the Transition Provisions fairly and as expeditiously as possible.

The community should be aware, however, that it is estimated that approximately 4000 complaints remained outstanding at the Commission on June 30, 2008. By December 2008 the Tribunal estimated that approximately 700 individuals had abandoned their

complaints at the Commission and filed transitional applications with the Tribunal, and that somewhere in the range of 2,700 complaints remained before the Commission. In total, these numbers represent more than Tribunal's annual anticipated caseload of new applications and are almost twice the number of complaints the Commission has traditionally dealt with annually. Inheriting this caseload will impose significant challenges on the Tribunal.

The Tribunal is confident that the processes developed to address these applications will provide for fair and expeditious resolutions. To meet these challenges, resources, staff and adjudicators have been assigned to the caseload reduction initiative. However, parties should understand that, given the magnitude of the potential caseload, delays in the scheduling of cases for mediation, resolution conferences or hearings may occur. As the caseload resolution initiative is implemented, the Tribunal will provide information to ensure the community understands and has clear expectations of the Tribunal's scheduling timeframes.

December 31, 2008