



HUMAN RIGHTS TRIBUNAL OF ONTARIO

B E T W E E N:

Le-Ni Robin

Applicant

-and-

Ambrosia Avenue Inc. o/a Ambrosia Natural Foods

Respondent

DECISION

Adjudicator: Fiona Keith

Date: April 23, 2024

File Number: 2022-50692-1

Citation: 2024 HRTO 563

Indexed as: **Robin v. Ambrosia Avenue Inc. o/a Ambrosia Natural Foods**

WRITTEN SUBMISSIONS

Le-Ni Robin, Applicant

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Self-represented

Ambrosia Avenue Inc. o/a Ambrosia
Natural Foods, Respondent

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Tanya Walker & Andrew Francis
Counsel

INTRODUCTION

[1] This decision considers whether the Human Rights Tribunal of Ontario (“the Tribunal”) has jurisdiction to proceed with this Application filed on September 28, 2022. The Application alleges discrimination in employment based on disability and colour contrary to the *Human Rights Code*, R.S.O. 1990, c. H.19 (the “Code”).

[2] In a letter dated November 6, 2023, the Tribunal asked the applicant to provide submissions on the following jurisdictional issue:

the Application appears to have been filed more than one year after the last incident of discrimination described in your Application and you do not appear to have cited facts that constitute “good faith” within the meaning of the HRTO’s case law [s.34(1)]. 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”.

[3] The Tribunal told the applicant that an adjudicator would consider her submissions and take one of the following actions: dismiss the Application in whole or in part; allow the Application to continue in the HRTO’s process without deciding whether it will succeed; or request additional information.

[4] The applicant sent submissions to the Tribunal on November 11, 2023. She explained that the Application was filed late because of her mental health, learning that she was pregnant, and dealing with post-partum depression.

[5] There is no dispute that the applicant filed the Application late, approximately twenty (20) months after the last alleged act of discrimination on January 24, 2021. The only issue is whether the Tribunal should exercise its discretion to extend the time for filing. For the following reasons, I have decided that the time for filing should not be extended.

[6] This decision was made following a hearing in writing. The Tribunal is not required to hold an oral hearing on the issue of its jurisdiction: *Iyirhiaro v. Human Rights Tribunal of Ontario and TTC*, 2012 ONSC 3015.

HAS THE APPLICANT ESTABLISHED A GOOD FAITH REASON FOR THE DELAY?

[7] Section 34 of the *Code* establishes a one-year limitation period for filing applications. The limitation period is consistent with the public interest in having individuals come forward promptly with claims of discrimination and act with due diligence in pursuing those claims.

[8] Under subsection 34(2), the Tribunal may decide to extend the one-year period if the applicant has a good faith explanation for the delay and no substantial prejudice will result to any person affected by the delay.

[9] The burden is on the applicant to show why the one-year period should be extended. The burden has been described as “fairly high”. See *Di Rinaldo v. Ontario (Solicitor-General)*, 2024 HRT0 13 at paras 23-24 (“*Di Rinaldo*”).

[10] This Tribunal has repeatedly held that an applicant must provide medical evidence if they ask for the limitation period to be set aside because of ill health. See: *Di Rinaldo*, *supra* at para 26.

[11] The medical evidence must show that the applicant’s condition was so debilitating that it prevented them from pursuing their human rights claim. The Divisional Court has held that it is not unreasonable for the Tribunal to impose this requirement. See *Paul James v. York University*, 2015 ONSC 2234 at para 47.

[12] In this case, the applicant asserts that her mental health and her pregnancy prevented her from filing the Application earlier. However, she has not provided medical evidence to support this assertion. Consequently, she has not met the burden to establish a good faith reason for the delay.

[13] Since the applicant has not established a good faith reason for the delay, it is not necessary to consider the question of whether the respondent would be substantially prejudiced by the delay.

CONCLUSION

[14] The Tribunal does not have jurisdiction because the Application was filed beyond the one-year limitation period in the *Code* and the applicant has not established a good faith reason for the delay.

ORDER

[15] Based on the above reasons, the Application is dismissed.

Dated at Ottawa, this 23rd day of April, 2024.



Fiona Keith
Member