



Human Rights Tribunal of Ontario

Respondent's Guide

Disponible en français

This Guide is available on the Internet at <http://www.hrto.ca> and in various accessible formats including audio tape and large print. For an alternative format or a paper copy, please contact the Human Rights Tribunal of Ontario at telephone: 416-326-1312, Toll Free: 1-866-598-0322, TTY: 416-326-2027, TTY Toll Free: 1-866-607-1240, Fax 416-314-8743; Fax Toll Free: 1-866-355-6099

Read each part of this guide as you fill out your Response Form. This Guide provides general information only. It should not be taken as legal advice or a determination of how the Tribunal will decide any particular issue.

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About the Ontario Human Rights Code

You have been named as a Respondent in an Application to the Human Rights Tribunal of Ontario (the Tribunal). The Applicant alleges that you discriminated against or harassed them in a way that is contrary to the *Ontario Human Rights Code*, R.S.O. 1990, Chapter H.19 (the Code).

The Code is a provincial law that gives every person the right to equal treatment and equal opportunities. The Code prohibits discrimination and harassment in five areas. (known as social areas):

- Employment
- Housing
- Goods and Services
- Contracts
- Membership in trade and vocational associations (such as unions).

The Code prohibits discrimination or harassed on any of the following grounds:

- Race
- Colour
- Ancestry
- Place of origin
- Citizenship
- Ethic origin
- Disability
- Creed
- Sex, including sexual harassment, pregnancy, and gender identity
- Sexual orientation
- Family status
- Marital status
- Age
- Receipt of public assistance (**Note:** This ground applies **only** to claims about housing.)
- Record of offences (**Note:** This ground applies **only** to claims about employment.)

The Code also has sections that prohibit:

- Discrimination because a person has a relationship, association or other dealing with a person or persons who are identified by one of the grounds listed above. This falls under Association.
- Reprisal or threats of reprisal because a person has claimed rights or taken part in a proceeding under the Code.
- Reprisal or threats of reprisal because a person has refused to infringe on another's rights.

- Sexual solicitation or advances by a person who is in a position to give or deny a benefit.
- Reprisal or threats of reprisal for rejecting a sexual solicitation.

What is the Role of the Human Rights Tribunal of Ontario?

The Human Rights Tribunal is the body responsible for resolving applications filed by individuals who claim that they have experienced discrimination or harassment. The Tribunal also resolves applications filed by a person or organization filed on behalf of another person and applications filed by the Ontario Human Rights Commission.

In most cases, the Tribunal will try to help both sides reach an agreement that settles the application.

Where an application cannot be settled, the Tribunal will hold a hearing to decide whether discrimination or harassment took place. If the Tribunal finds that the applicant experienced discrimination or harassment the Tribunal can make an order to address the discrimination or harassment. This can include ordering the Respondent to pay financial compensation to the applicant, and/or make orders to prevent further human rights violations. If the Tribunal finds that discrimination did not occur, it will dismiss the Application.

Whether through mediation or a hearing, the Tribunal works to resolve Applications on the basis of the facts and the law. The Tribunal's Rules and procedures are designed to deal with all Applications fairly and expeditiously, and in a way that ensures parties can understand and fully participate.

Using this guide

As a Respondent named in an Application to the Tribunal, you respond to the allegations made in the Application. If you fail to file a response, within the time specified in the Rules, the Tribunal may determine that you have violated the Code and make an order against you, without any further Notice to you. Follow the instructions in this Guide for filling out your Response Form. Make sure that your Response Form is complete and correct.

Finding a Lawyer

This Guide is not legal advice. If you wish to hire a **private lawyer** and do not know one, you can contact the Lawyer Referral Service, Law Society of Upper Canada. The telephone number is 1-900-565-4577 (1-900-565-4LRS). This number can be dialed from any private phone in Ontario. This is a phone-based service only. There is a fee for using this service, but it lets you talk to a lawyer for thirty (30) minutes. Or, you could check the Yellow Pages in your area.

Learn more about your rights and responsibilities under the Code

If you want general information about discrimination and the Code, visit www.ohrc.on.ca or phone 1-800-387-9080.

Do you need copies of Tribunal forms?

Contact the Human Rights Tribunal of Ontario at

Registrar
Richard Hennessy
Human Rights Tribunal of Ontario
655 Bay St. 14th Floor
Toronto, ON M7A 2A3

Toronto: (416) 326-1312
Toll Free: 1-866-598-0322
TTY (Toronto): (416) 326-2027
TTY (Toll Free): 1-866-607-1240
Fax: (416) 326-2199
Fax (Toll Free): 1-866-355-6099
email: HRTTO.Registrar@ontario.ca

Understanding Discrimination

Defining discrimination under the Code

The Ontario Human Rights Code is the law that defines **the situations where discrimination is not allowed**. Not all unfair conduct or unequal treatment is discrimination under the Code.

The Code says that every person has the right to:

- equal treatment in the five **area** (or social areas) named in the Code
- be free from discrimination or harassment on any of the listed **grounds of discrimination** named in the Code.

When a person believes that discrimination has happened to them, they have the right to apply to the Human Rights Tribunal of Ontario. When they do this, they are referred to as the **Applicant**.

On the Application Form (Form 1), the Applicant must name the people or organizations they believe are responsible for the discrimination being claimed. These people are called **Respondents**.

When does the Code not apply? Some examples of exemptions

The Code includes some exceptions to the rule against unequal treatment on a discriminatory ground. For example, although the Code states that a person cannot be treated differently because of their age, it allows different insurance rates based on age.

Another example of an exemption occurs in housing. The Code allows an owner to refuse to rent to someone based on their gender or race if:

- the owner or his or her family also lives on the premises, and,
- the owner of his or her family would be sharing a kitchen or bathroom with the tenant.

To find out if your situation falls within an exemption, you should get legal advice.

Other Proceedings

Applications where there is a civil court action based on the same facts.

In most cases the Code does not allow an application where there is civil court action based on the same facts if a remedy is sought there for the alleged human rights violation. You may ask the Tribunal to for an early dismissal of the Application in this case.

An Application can be filed if the court action was withdrawn.

Applications where another proceeding is reviewing the same facts.

There may be another proceeding that is dealing with the same facts, such as:

- a grievance arbitration
- a hearing before the Workplace Safety and Insurance Appeals Tribunal, or
- a hearing before the Landlord and Tenant Board.

In these cases, an Application can still be filed, but

- If the other proceeding is still going on, the Tribunal may decide to postpone or defer the application. You or the Applicant can also request a deferral.
- If the other proceeding has dealt with the facts of the Application appropriately, the Tribunal may dismiss the application. You may ask the Tribunal for an early dismissal of the Application in this case.

Applications that are the same or substantially the same as a complaint previously filed with the Ontario Human Rights Commission.

The Transitional provisions of the Code have special rules that deal with Complaints filed directly with the Ontario Human Rights Commission prior to June 30, 2008. In most cases the Code prevents an Applicant from making a new Application which is based on the same facts as a previously filed Complaint.

However, if between June 30, 2008 – June 29, 2009 if there is an active complaint before the Commission the Applicant may be able to file an Application with the Tribunal based on the same subject matter under special provisions of the Code and using special Rules established by the Tribunal. Refer to the “Transitional Cases” section of the Tribunal’s website, or contact the Tribunal for information on these transitional cases.

Completing your Response Form

Tribunal File Number

You will find the Tribunal File Number on the letter sent to you by the Tribunal. Please refer to this number on any correspondence or documents you send to the Tribunal.

Contact information for Respondents

Contact information for Respondents has three sections:

1. Respondent Contact Information – Individual

Complete section only if you were personally named as a Respondent by the Applicant. Make sure you give your complete contact information and the best way to contact you.

2. Respondent Contact Information - Organization

Complete this section if the Applicant named your organization as a Respondent. Type an **x** in the box that best describes your organization’s legal status. Give complete contact information for the person in the organization who will have the authority to negotiate on behalf of the organization and make binding agreements to settle this matter.

3. Representative Contact Information (if you have one).

If you have a representative, all communication from the Tribunal and the Respondent will go to your representative. You must give us their complete contact information. You must first check the box that authorizes this person to act as your representative.

NOTE: You must tell the Tribunal the best way to send information to you - you can choose mail, email or fax. If you check off email as the best way to

contact you, you will have consented to the Tribunal, the Respondent(s) and any other party delivering documents and other information to you by email.

Contact Information – Additional Respondent(s) and Affected Person(s)

4. Additional Respondent Contact Information

Complete this section if you know of a person or organization who:

- should be named as a Respondent in this matter; and,
- is not already named in the Application.

They are entitled to notice of this proceeding. Please give complete information for each Respondent. Add more pages if needed.

5. Affected Person Contact Information

Complete this section if you know of any other person or organization, (such as a union or occupational association), which might be affected by this Application to the Tribunal. They are entitled to notice of the proceeding. Please give complete contact information for each person or group you name. Add more pages if needed.

Request for Early Dismissal of the Application

6. Request for early dismissal – without full Response

You may ask the Tribunal for an early dismissal of the Application without fully completing this Response Form only in the situations listed in Question 6.

In all other cases, you may ask the Tribunal to dismiss the Application, but you must complete the entire Response Form.

If this section does **not** apply to you, go to Question 7.

If this section **does** apply to you, follow these steps:

1. Put an **x** in the box beside each situation that applies.
2. Attach a copy of each document you are required to give the Tribunal. You can attach the documents with this Response, or send them to the Tribunal within five (5) business days. You may fax or email the documents. Be sure to put the Tribunal File Number, your name and the Applicant's name on each document.
3. Go to Question 20 Put an **x** beside each document you are required to attach to support your request to dismiss the application.
4. Go to Question 21 and follow the instructions for signing and returning your Response Form.

When the Tribunal receives your Response Form, the Tribunal may ask the Applicant for comments about your request to dismiss the Application. After it hears from all parties, the Tribunal will decide whether or not to dismiss the Application at this stage of the proceedings. The Tribunal will provide the parties the opportunity to make submissions prior to dismissing any Application.

If the Tribunal decides it is not appropriate to dismiss the Application at this stage, based on the situation you identified, you will be required to submit a complete Response Form.

Note: You must attach a copy of the document referred to in your Response Form. You may also attached a fuller explanation of why the situation you identified should result in an early dismissal of the Application.

7. Request for Early Dismissal – With Full Response

You may ask the Tribunal for an early dismissal of the Application if there has been another proceeding that has appropriately dealt with the substance of the application.

If you believe this section applies to you, follow these steps:

1. Name the other proceeding.
2. Explain why you believe the other proceeding has appropriately dealt with the substance of the application.
3. You must complete the remainder of this Response Form.

When the Tribunal receives your Response Form, the Tribunal may ask the Applicant for comments about your request to dismiss the Application. After it hears from all parties, the Tribunal will decide whether or not to dismiss the application. The Tribunal will always provide the parties an opportunity to make submissions prior to dismissing an application.

Note: You must attach a copy of the other decision to your Response Form.

Request to Defer (postpone) the Application

8. Request to Defer

The substance of this Application may be part of another type of proceeding, such as:

- a grievance procedure
- a hearing before the Workplace Safety and Insurance Board
- a hearing before the Landlord and Tenant Board.

If the proceeding is still going on, you can ask the Tribunal to defer (postpone) the Application until there is a decision.

When the Tribunal receives your Response Form, the Tribunal may request comments from both the Applicant and any other parties to decide whether or not to defer (postpone) the Application.

Note: You must attach a copy of the document that commenced the other proceeding to your Response Form.

Responding to the Allegations in the Application

9. Responding to the Allegations

This question is your chance to tell the Tribunal your side of the story. Respond to each allegation of discrimination found:

- in the Application (Form 1) and
- in each of the social area forms (Forms 1A - 1E) that accompanied the Application.

Facts that support your response

Tell the Tribunal:

- what facts you agree with
- what facts you disagree with and why
- what additional information you have.

10. Exemptions

The Code includes some exemptions to the rule against unequal treatment on a discriminatory ground.

To find out if your situation falls within an exemption, you should get legal advice.

If you are relying on one of the exemptions in the Code, you should indicate that here and explain why.

11. Knowledge of the Events

Tell the Tribunal when you first became aware of the events described in the Application and how you responded.

12. Disability and Employment

Complete this question only if:

- the application alleges discrimination on the ground of disability **and**
- the application alleges discrimination in employment.

If this is the case, Form 1-A, Questions about Employment, will be attached to the Application. Read over all of the information about the allegations. You must answer all of the questions in this section.

13. Internal Human Rights Policies

This question is for companies or organizations rather than individuals. Complete this section if the Respondent is company, such as a sole proprietor, partnership, corporation, association, or other group.

A) Internal policy

If your organization has a policy on human rights, discrimination, or harassment that is related to the allegations in this application, put an **x** in the “Yes” box and go to B.

Note: You must attach a copy of your policy to your Response Form.

B) Internal complaint process

If your organization has a process for dealing with complaints about discrimination and harassment, put an **x** in the “Yes” box and go to C.

Note: You must attach a copy of your complaints process to your Response Form.

C) Did the Applicant make an internal complaint?

If the Applicant made a complaint under your internal human rights policy, about substantially the same facts as those in this Application, put an **x** in the “Yes” box and go to D.

Note: You must attach a copy of any document used to start the internal complaint.

D) What was the result of the internal complaint process?

Please describe what happened as a result of the internal complaint.

Note: You must attach a copy of the policy, complaint process, the document that started the complaint and the decision.

Mediation

14. Choosing Mediation to Resolve the Application

Mediation is one of the ways the Tribunal tries to resolve disputes. It is a less formal process and can achieve a resolution more quickly than a hearing. The Tribunal’s mediation process can be very successful in helping both sides reach an agreement, and still give the parties an opportunity to be heard.

Mediation is voluntary. Mediation can only happen if both parties agree to it. A Tribunal Member will be assigned to mediate the Application. The Member will meet with all the parties to talk about the Application and to try and work out a solution that all parties can accept. If mediation does not settle all the issues, a

hearing will still take place and a different Member will be assigned to hear the case. Mediation is confidential.

If you want to try mediation, put an **x** in the “Yes” box on the form. The Tribunal encourages you to try mediation.

Documents That Support Your Response

We ask you to list the most important documents that you believe will support your response to the application.

The Response Form asks you to list separately:

15. Important Documents You Have.

Please list the important documents that you have. Be sure to indicate any documents in which you claim privilege.

16. Important Documents the Applicant Has.

Please list the important documents that the Applicant has that you do not have.

17. Important Documents Another Person or Organization Has.

Please list the important documents that someone else has that you do not have.

You do not have to send us copies of the documents at this time. The Tribunal will send you and the Applicant a notice telling you when it will hear the case. The notice will explain that you and the Applicant have twenty-one (21) days to exchange copies of all arguably relevant documents.

If you do not receive documents that you need, read the Tribunal Rules, guides or practice directions to find out how to get the documents.

You can get the Tribunal's Rules, guides or practice directions from our [website](#). Or, call us to get a copy.

Confidential List of Witnesses

18. Witnesses

List here the names of witnesses who have important information that will support your response to the Application. Explain why their information is important.

Note: This part of your Response will be kept confidential by the Tribunal. We will not send this page of your Response Form to the Applicant when we give them a copy of your Response Form.

Other Important Information

19. Any 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 there are other applications filed by the same Applicant and if you think this Application should be joined with another Application.

Checklist of Required Documents

20. Documents from questions 6-13

Use this checklist to make sure that you have attached all of the additional documents you need to make your Response complete. You can send the documents attached to your Response, or separately by mail, fax or email. If sent separately, you must clearly write on each document who is sending the document, the Tribunal file no. and the names of the Applicant and the Respondent(s). You must send the documents to the Tribunal within five (5) business days.

21. Declaration and Signature

Before you sign your Response Form, read carefully:

- the statement on Freedom of Information and Privacy
- the declaration that goes above your signature.

Freedom of information and privacy

The Tribunal will use the information you have sent us to deal with this application and to fulfill our responsibilities under the Human Rights Code.

The information in your Response, as well as other information about this case, may become public in the course of the Tribunal processes. For example, your information will become public at the hearing and in the Tribunal's decision.

The law requires the Tribunal to share both the application and any filed response with the Ontario Human Rights Commission, if requested.

Your information could also become public in response to a request to the Tribunal under the Freedom of Information and Protection of Privacy Act.

The Tribunal has policies for responding to requests for information, as well as requests to keep information private. Our responses are based on balancing privacy interests with the public's interest in having a transparent legal process.

By signing your Response Form, you are declaring that you understand your information can become public in these ways.

Signing your Response

When you sign your Response Form, you declare that your response is as complete and accurate as you can make it. Do not sign until you are sure that you can declare this.

If you are filing your response electronically, clicking the box in the Declaration section represents your legal signature.

Accommodation required

The Tribunal will accommodate your Code related needs in accordance with our Accessibility Policy found at www.hrto.ca or you can contact the Tribunal to send you a copy.

If you require accommodation to participate in the Tribunal processes contact the Registrar.

Where to send your Response Form

Richard Hennessy
Registrar
Human Rights Tribunal of Ontario
655 Bay St. 14th Floor
Toronto, ON M7A 2A3

Toronto:	(416) 326-1519
Toll Free:	1-866-598-0322
TTY (Toronto):	(416) 326-2027
TTY (Toll Free):	1-866-607-1240
Fax:	(416) 326-2199
Fax (Toll Free):	1-866-355-6099
email:	HRTO.Registrar@ontario.ca

Note: Submit your response **only once**. If the Tribunal receives this response more than once, it will only accept the first Response Form received.

What happens after you file your Response

Here are the stages in the process after the Tribunal has received your response:

1. If this Response is not complete, we will return it to you with an explanation of how it is not complete. You will have 20 days to resubmit the complete response form
2. We will send the Applicant, and any other named respondent or affected persons a copy of the Response Form. If you have raised any new matters, we will give the Applicant an opportunity to file a Reply, setting out their position on the new matters raised.
3. If both you and the Applicant have agreed to try mediation, we will schedule a time when you both can meet with a Tribunal mediator. The mediator will help both sides to try to come to an appropriate settlement.
4. If the Application goes ahead without mediation, we will schedule a hearing.