



HUMAN RIGHTS TRIBUNAL OF ONTARIO

BETWEEN:

Joyne Lavides

Applicant

-and-

Windsor Hill Non-Profit Housing Corporation

Respondent

DECISION

Adjudicator: Denise Ghanam

Date: January 24, 2024

File Number: 2022-50571-I

Citation: 2024 HRTO 97

Indexed as: **Lavides v. Windsor Hill Non-Profit Housing Corporation**

[1] The applicant filed an Application alleging discrimination based on disability and reprisal in housing and goods and services, contrary to the *Human Rights Code*, R.S.O. 1990, c. H. 19, as amended (the “Code”). Specifically, the applicant alleged that the respondent discriminated against them by not approving requested repairs in a timely manner, which aggravated their disabilities.

[2] The Tribunal sent the applicant a Request for Additional Submissions (the “Request”) dated November 7, 2023, advising that the Application appeared to be outside of the Tribunal’s jurisdiction because the narrative setting out the incidents of alleged discrimination failed to identify any specific acts of discrimination within the meaning of the *Code* allegedly committed by the respondent. Further, it appears that some of the events described in the Application are untimely, falling outside the Tribunal’s one year limit.

[3] The applicant filed submissions in response to the Request which I have carefully considered.

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

ANALYSIS AND DECISION

[5] To proceed in the Tribunal’s process, an application must fall within the Tribunal’s jurisdiction. An adjudicative body either has jurisdiction or it does not. See *G.-L. v. OHIP (General Manager)*, 2014 ONSC 5392.

[6] The Tribunal’s jurisdiction is limited to enforcement of the *Code*. The *Code* only prohibits actions that discriminate against people based on their enumerated ground(s) in a protected social area. This means that the Tribunal does not have jurisdiction over general allegations of unfairness unrelated to the *Code*. See *Hay v. Ontario (Human*

Rights Tribunal), 2014 ONSC 2858) (“*Hay*”) and *Bello v. Toronto Transit Commission*, 2014 ONSC 5535 (“*Bello*”) and *Groblicki v. Watts Water*, 2021 HRTO 461 (“*Groblicki*”).

[7] By virtue of their humanity, everyone will identify with at least one *Code*-enumerated ground and, over the course of their lifetime, most people will suffer some form of adverse treatment which may or may not be connected to the *Code*. Because of this, the *Code* does not assume that all adverse treatment is discriminatory.

[8] To fall within the Tribunal’s jurisdiction, an applicant must provide some factual basis beyond a bald assertion which links their ground(s) to the respondents’ actions and explains why they think that these actions are discriminatory in nature. See *Hay*, *Bello*, and *Groblicki*, above and also *Mehedi v Mondalez Bakery*, 2023 ONSC 1737 (“*Mehedi*”) and *Heath-Engel v. Seneca College*, 2023 ONSC 5441. Both of those rulings of the Divisional Court upheld the Tribunal’s right to dismiss an Application that makes no plain and obvious connection between alleged adverse treatment and the enumerated grounds cited, other than a bald assertion by the applicant.

[9] In this Application, the applicant states that they requested the respondent to provide various repairs to their housing unit. Over the past three years, these requests included sealing cracks in bedroom windows, cleaning and repainting a bathroom due to mould, replacing existing faucets with single handle units, and repairing or replacing a fridge drawer that sticks. The applicant alleges that the respondent either was slow to action those requests, did not undertake the repairs requested, or did not complete the repairs in the manner requested by the applicant. The applicant alleges that they received this poor repair service because the respondent discriminated against them on the basis of their disability and reprised against them due to a previously settled Application with this Tribunal. However, they do not clearly explain how these acts are linked to the *Code* grounds.

[10] In response to the Request, the applicant indicated again that they were denied services by the respondent stating that “the respondent did not procedurally and substantially accommodate my disabilities in my unit.”

[11] The applicant further asserted that the respondent discriminated against them because they have a disability and the non-repairs or delays exacerbated their medical condition. The applicant alleges that the respondent also failed to accommodate certain requests the applicant made around how and when the repairs were to be scheduled and completed.

[12] The respondent argued that this Application contains allegations that are untimely, is advanced vexatiously and in bad faith by the applicant, and should be dismissed. They further argued that:

At all material times, Windsor Hill accommodated the Applicant's requests with respect to maintenance and repairs of her unit. Among other things, Windsor Hill routinely and upon request fixed issues pertaining to lighting fixtures, the refrigerator, kitchen and bathroom sinks and other concerns that the Applicant may have had with respect to her tenancy.

[13] With respect to the fridge issue specifically, the respondent argued that they attended at the applicant's unit the following day after receiving the Repair Request Form (August 24, 2021) and made the other requested repair to light fixtures. The fridge was found to be fully functional save for a cracked crisper drawer. The respondent advised the applicant to contact the office in writing to order the replacement part. The respondent asserts that the applicant did not request the replacement drawer as directed, and they did not hear about it again until August, 2022, at which point they provided the applicant with a new fridge.

[14] It is unclear how the respondent treated the applicant differently than other tenants requesting repairs, or that their treatment of the applicant was based in any way on their disability. It only appears that the respondent did not undertake every repair in as timely a manner as the applicant wanted, or when they did try to schedule repairs, the applicant was unhappy with the amount of notice provided. It appears that the applicant wanted to dictate the schedule and timing of repairs to the respondent.

[15] Many factors are considered by property owners and managers when determining what maintenance is required to a unit and when and how the respondent is able to

schedule contractors to complete the work. This may be a matter better dealt with by the Landlord Tenant Board.

[16] As noted above, and confirmed by *Mehedi*, it is not enough for an applicant to assert that they have an enumerated ground(s) and have received adverse treatment at the hands of the respondent. To come within the Tribunal's jurisdiction, the applicant must provide some factual basis to link the respondent's conduct to their *Code*-enumerated ground(s). A bald assertion that the adverse treatment they received was owing to their enumerated ground(s) is not enough to provide the required factual basis.

[17] The applicant failed to provide any clear factual basis to link their assertions about their disability to the alleged adverse treatment. Simply because the applicant made a request for repairs, and the respondent did not comply as promptly as they would like, does not mean that discrimination has occurred.

[18] With respect to the allegation of reprisal, the Tribunal set out in *Noble v. York University*, 2010 HRTO 878, that the following elements must be established:

- a. An action taken against, or threat made to the applicant;
- b. The alleged action or threat is related to the applicant having claimed or attempted to enforce a right under the *Code*; and
- c. An intention on the part of the respondent to retaliate for the claim or attempt to enforce the right.

[19] I find that there is nothing in the actions of the respondent that would indicate they were reprisal against the applicant because of the earlier settled Human Rights Application. While the applicant's perspective appears to be that all interactions with the respondent's staff are negative and disrespectful, I cannot find any allegations of behaviour that meet the test for reprisal outlined above.

[20] In the circumstances of this case, I find that the applicant has failed to provide a factual basis beyond a bald assertion which links their grounds to the respondent's actions or demonstrates reprisal or threat of reprisal. Given that finding, I do not need to

address the other issue raised in the Notice of delay. Accordingly, the Application does not fall within the Tribunal's jurisdiction.

ORDER

[19] For the above reasons, the Application is dismissed.

[20] The half-day Hearing on the Merits of this Application, scheduled for March 6, 2023, via videoconference, at 1:30 pm is cancelled.

Dated at Toronto, this 24th day of January, 2024

“Signed by”

Denise Ghanam
Member