

**HRLSC** | Human Rights Legal Support Centre

**CAJDP** | Centre d'assistance juridique  
en matière de droits de la personne

# **The HRTO Process: Completing and Filing an Application (Form 1)**

# Section 1 - Personal Contact Information



- Provide *Applicant's* name, address, telephone number, fax number, cell number and e-mail address.
- A self-represented Applicant must advise the HRT0 what method of communication they prefer (i.e., mail, e-mail or fax).

# Section 1 - Personal Contact Information: Litigation Guardians



A *Litigation Guardian* is a person who files an application on behalf of someone who is not legally able to file on their own.

- See [\*Practice Direction on Litigation Guardians before Social Justice Tribunals Ontario\*](#).

There are two situations where a Litigation Guardian is needed.

# Section 1 - Personal Contact

## Information: Litigation Guardians

### 1/2



1. Where the person who has been discriminated against is a *minor* (under 18 years of age):

- Application must be filed by an adult (usually a parent or legal guardian) on behalf of the Applicant
- Person filing the Application must complete and file a **Form 4A** requesting to be approved as a Litigation Guardian

# Section 1 - Personal Contact

## Information: Litigation Guardians

### (2/2)



2. Where the person who has been discriminated against does not have the *mental capacity* to file on their own:

- **Mental Incapacity**- cannot understand information needed to make decisions about the case or cannot understand the consequences of such a decision
- Person filing Application must complete and file a **Form 4B** requesting to be appointed as Litigation Guardian

# Section 1 - Personal Contact Information: Section 34(5) Applications



## Application on behalf of another

**34(5)** A person or organization, other than the *Ontario Human Rights Commission*, may apply on behalf of another person to the Tribunal for an order under section 45.2 if the other person:

- (a) would have been entitled to bring an application under subsection (1); and
- (b) consents to the application.

The person/organization seeking to file an application on behalf of another person must file a **Form 27** along with a completed Form 1.

See [\*Practice Direction on Filing Applications on behalf of another person under Section 34\(5\) of the Code.\*](#)

# Section 2 - Alternative Contact Information



This section allows for an Applicant to provide an alternative address for delivery of all HRTO correspondence, which is useful where:

- an Applicant may not have a permanent address (i.e. post-secondary student living in residence, person living in a shelter or temporary housing); or
- an Applicant wishes to keep their address private, as the Respondent will only be provided with the Alternative Contact address.

**IMPORTANT:** If Applicant completes this section, all correspondence from the HRTO will go to the Alternative Contact and the Applicant will not receive any direct communication from the HRTO.

# Section 3 - Representative Contact Information



If the Applicant retains a lawyer or paralegal, they must authorize that person to represent them and provide their contact information, indicating the best way to send information to them (i.e., mail, e-mail or fax).



# Section 3 - Representative Contact Information (1/2)



**Three (3) options for representation at the HRTO:**

1. self-representation;
2. representation by a lawyer or paralegal **licensed** by the ***Law Society of Ontario*** (LSO); or
3. representation by an **unlicensed** person if that person falls within a category the LSO has exempted from its licensing requirements.

# Section 3 - Representative Contact Information (2/2)



Exemptions include:

- an unpaid friend or family member;
- an employee or volunteer from a trade union; or
- students, volunteers and employees of Legal Aid clinics.

A person who is not licensed, whose license is suspended or who is not in an exempted category will not be permitted to act as a ***representative*** in an HRTO proceeding.

See [\*\*\*Practice Direction on Representation before Social Justice Tribunals Ontario.\*\*\*](#)

# Section 4 - Respondent Contact Information



Must provide contact information for every organization and/or individual you wish to name as a ***Respondent***.

- It is important to name the correct parties as Respondents to ensure all organization(s) and/or individual(s) ***liable*** for the ***discrimination*** are included in the proceeding from the beginning.
- **BUT** the HRTO discourages the unnecessary naming of Respondents: see [\*\*\*Practice Direction on Naming Respondents\*\*\*](#).

# Section 4 - Respondent Contact Information: Organization



You must use the correct legal name of an organization:

- ***Employment***- check name on ROE, paystub, or T4 slip
- ***Housing***- check name on lease or rent receipts
- ***Goods, Services and Facilities***- check name on invoices or other paperwork.

# Section 4 - Respondent Contact Information: Individual



It is usually not necessary to name an individual as a Respondent, as an organization is liable for the actions of its employees that are performed in the course of their duties.

One exception is in cases involving ***harassment***, where an employer may not be held liable – in such cases, it is important to name the harassing person individually.

Refer to our guide ***Completing the Application Form (1) – Respondents*** for more information on when an individual should be named as a respondent .

# Section 5 - Grounds of Discrimination



- You must indicate what *Code prohibited grounds of discrimination* you believe are relevant to an Applicant's experience of discrimination and/or harassment.
- Put an 'X' in the box next to the applicable ground(s).

# Section 5 - Grounds of Discrimination



- *Race, colour*
- *Ancestry*
- *Place of origin*
- *Citizenship*
- *Ethnic origin*
- *Creed (religion)*
- *Receipt of social assistance (housing only)*
- *Sexual orientation*
- *Marital status*
- *Family status*
- *Record of offences (employment only, must have been pardoned)*
- *Age*
- *Disability*
- *Sex (includes being pregnant, sexual harassment)*
- *Gender identity and expression*

# Section 6 - Social Area of Discrimination



- You must indicate which *social area* you believe the Applicant has experienced discrimination in.
- You must also complete the supplementary form:
  - Form 1A – **Employment;**
  - Form 1B – **Housing;**
  - Form 1C – **Goods, Services and Facilities;**
  - Form 1D – **Contracts; or**
  - Form 1E – **Membership in a Vocational Association.**
- If you are using the **HRTO Smart Form**, the correct supplementary form will automatically be added.



# Section 7 - Location and Date



## You must indicate whether:

- the events happened in Ontario and in what city or town;
- the date of the last event; and
- if you are applying **more than one year from the last event**, you must explain the delay in filing your application.

# Section 7 - Location and Date: Filing a Late Application



***Limitation Period: Are you filing within one (1) year of the date of the last event in your Application?***

- If you are not, then you must provide a good explanation for filing late.
- It must be a very compelling reason, such as a serious medical illness.

**NOTE: The HRTTO is very strict with this deadline.**

- You must determine when your limitation period will run out and file before that date.

# Section 8 - What Happened?



The Applicant must set out ALL the allegations of discrimination in as much detail as possible:

- Respondent(s) are entitled to notice of allegations and would be unfairly disadvantaged by a lack of detail and clarity in application;
- Applicant could be unable to proceed with an allegation not properly described in their application. A new allegation may be added later by requesting an amendment, but this requires permission from the HRTO.

# Section 9 - How the Events You Described have Affected you



The Applicant must describe how the discriminatory events alleged in the application affected them financially, physically, socially, and emotionally:

- financial hardship caused by loss of a job;
- depression, anxiety, insomnia and general stress;
- negative effect on relationships with family and friends; or
- loss of confidence and self-esteem.

**Effect of discriminatory events on the Applicant is a key factor in determining the amount of damages to be awarded.**

# Section 10 - The Remedy You Are Asking For



Section 10 has three subsections, to match the three provisions in section 45.2(1) of the *Code*:

## 1. Monetary Compensation

S.45.2(1): “pay monetary compensation... for loss arising out of the infringement, including compensation for injury to dignity, feelings and self-respect”.

## 2. Non-Monetary Remedies

S.45.2(2): “make restitution... other than through monetary compensation, for loss arising out of the infringement, including restitution for injury to dignity, feelings and self-respect”.

## 3. Remedies for Future Compliance

S.45.2(3): “do anything that, in the opinion of the Tribunal, the party ought to do to promote compliance with this Act”.

## Section 11 - Mediation

Mediation at the HRTO is voluntary. Both parties must consent before a ***mediation*** (or settlement conference) will be scheduled.

The Applicant must indicate in this section if they are willing to attempt mediation.

# Sections 12, 13, 14 & 15 - Other Legal Proceedings



Applicant must indicate if there are any other legal proceeding, in progress or completed, on the same set of facts:

- **Section 12-** civil claim including a request for *Code* remedies
- **Section 13-** any previously filed complaint with the Ontario Human Rights Commission
- **Section 14-** union grievance or claim before another board, tribunal or agency (e.g., Landlord and Tenant Board) that is still in progress
- **Section 15-** union grievance or claim before another board, tribunal or agency that is complete

# Sections 16, 17 & 18 - Supporting Documentation



- You can list documents you believe are important and indicate why they are important.
- You do not have to send copies of these documents when filing the application.

**NOTE:** This list of documents does not finally determine the evidence you will be allowed to rely on at a hearing.



# Section 19 – Witnesses



- You can list any **witnesses** you intend to rely on in the event of a hearing.
- This witness list is **confidential**. The HRTDO does not sent this list to the Respondent(s).

**NOTE:** This list of witnesses does not determine what witnesses you will be allowed to call upon to testify at a hearing.

# Section 20 - Other Important Information



If there is any other important information that is relevant to your application that you believe the HRTTO should be aware of, you can set that information out in this section.

# Section 21 - Area of Discrimination



Check off the appropriate box and complete one (1) or more of the following supplementary forms in order to complete your application:

- **Form 1A** – Employment
- **Form 1B** – Housing
- **Form 1C** – Goods, Services and Facilities
- **Form 1D** – Contracts
- **Form 1E** – Membership in a Vocational Association

If you are using the **HRTO Smart Form**, the correct supplementary form will automatically be added.

# Section 22 - Other Documents



If you indicated in sections 12, 13, 14 or 15 that there is (or was) another legal proceeding, you must check the appropriate box and provide a copy of the originating document of the other legal proceeding with the application:

- statement of claim (**Section 12**);
- any previously filed complaint with the Ontario Human Rights Commission (**Section 13**);
- union grievance or claim before another board, tribunal or agency (**Section 14**); or
- a copy of any final decision issued on a union grievance or claim before another board, tribunal or agency (**Section 15**).

# Section 23 - Declaration and Signature



The Applicant must date and sign the application before submitting it to the HRTTO.

If submitting application electronically, the Applicant must check box under signature line to electronically sign the document.

# Submitting Your Application



Send your application and any attachments to:

## **Human Rights Tribunal of Ontario**

655 Bay Street, 14<sup>th</sup> Floor

Toronto, Ontario M7A 2A3

*Fax:* 416-326-2199

*Toll free:* 1-866-355-6099

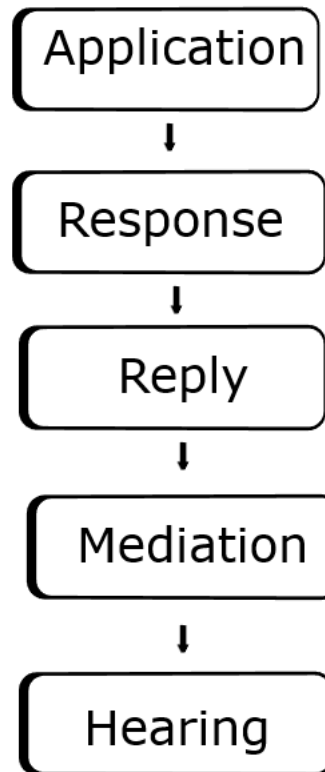
*Email:* [HRTO.Registrar@ontario.ca](mailto:HRTO.Registrar@ontario.ca)

HR<sub>L</sub>SC | Human Rights Legal Support Centre

CAJDP | Centre d'assistance juridique  
en matière de droits de la personne

# **What Happens After an Application is Filed?**

# What Happens after the Application is Filed?





# HRTO Reviews Application



Once the HRTO receives the application, it will send you a letter/email confirming receipt of the application.

The HRTO will then review your application to make sure there are no issues with it before it is sent to the Respondent(s).

# Potential Issues HRTO Might Identify with Application



- Application is incomplete
- Application is not within ***provincial jurisdiction***
- Facts set out in application do not engage a social area and/or ground protected by the *Code*
- Application filed beyond one (1) year of last incident
- Application may need to be ***deferred*** due to another legal proceeding that is ongoing
- Application may need to be dismissed due to another legal proceeding that has concluded.

# Notice of Potential Issue from HRTO



**Notice of Incomplete Application:** will list which questions were missed and will give you a deadline to respond by.

**Notice of Intent to Dismiss:** will set out what issue(s) the HRTO has with the application and will ask you to provide submissions by a certain date.

**Notice of Intent to Defer:** will ask for submissions on whether the application should be deferred pending completion of the other legal proceeding.

# Notice of Potential Issue from HRTO (1/2)



**NOTE: If you do not respond to the HRTO Notice, the application could be dismissed as “abandoned”.**

If you require more time to prepare submissions, email the HRTO Registrar immediately and ask for an extension:  
*[HRTO.Registrar@ontario.ca](mailto:HRTO.Registrar@ontario.ca)*

# Notice of Potential Issue from HRTO (2/2)



## After responding to Notice of Intent to Dismiss

- If HRTO is convinced by an Applicant's *submissions*, Applicant will receive a HRTO letter stating that the application will continue to be processed and then served on the Respondent.
- If the HRTO is not convinced by an Applicant's submissions, there is a chance the application may be dismissed.
- **HRTO will not dismiss an application at a preliminary stage unless it is *plain and obvious* it is outside the HRTO's *jurisdiction* to decide.**
- HRTO will ask for further submissions if issue is still unclear.