

**Canadian Human
Rights Tribunal**



**Tribunal canadien
des droits de la personne**

Citation: 2025 CHRT 18
Date: March 14, 2025
File No.: HR-DP-2986-24

Between:

Mudiaga John Osiebe

Complainant

- and -

Canadian Human Rights Commission

Commission

- and -

FedEx Ground Package System Limited

Respondent

Ruling

Member: Anthony Morgan

Table of Contents

I.	OVERVIEW.....	1
II.	DECISION.....	1
III.	ISSUE 1: REQUEST TO STRIKE.....	1
	A. Respondent's opposition to certain paragraphs.....	1
	B. Legal framework	3
	C. My reasons	5
IV.	ISSUE 2: REQUEST FOR DISCLOSURE AND PARTICULARS	6
	A. Respondent's position on disclosure and additional particulars	6
	B. Legal framework	10
	C. My reasons	12
V.	ORDERS.....	16

I. OVERVIEW

[1] The Respondent, FedEx Ground Package System Limited (“FedEx Ground”), seeks an order to have the Complainant, Mr. Mudiaga John Osiebe, strike certain paragraphs from his Statement of Particulars (SOP), as well as an order to have the Complainant disclose certain particulars and documentation.

II. DECISION

[2] The request to strike the disputed paragraphs in the Complainant’s SOP is denied, and the motion to disclose certain particulars and documentation is granted in part.

III. ISSUE I: REQUEST TO STRIKE

A. Respondent’s opposition to certain paragraphs

[3] Mr. Osiebe, who is a Black man from Nigeria, alleges that, in relation to his part-time and fixed-term contract employment as an Operations Administrator, the Respondent discriminated against him based on his colour, race and national or ethnic origin and sex. Now a former employee of the Respondent, Mr. Osiebe alleges that he experienced discrimination from June 2019 to the end of his employment with the Respondent in December 2019.

[4] According to Rules 18 to 20 of the *Canadian Human Rights Tribunal Rules of Procedure, 2021*, SOR/2021-137 (the “Rules of Procedure”), the parties are required to file SOPs. These SOPs outline the parties’ positions on the issues and facts of the complaint.

[5] In its SOP, FedEx Ground claims that the Complainant’s SOP puts forward for the first time three allegations which the Respondent objects to being introduced. The Respondent relies on four grounds for opposing the inclusion of these three alleged new allegations.

[6] The Respondent’s first ground for opposing the inclusion of what the Respondent characterizes as new allegations is that they were not part of the complaint referred to the

Tribunal for an inquiry by the Canadian Human Rights Commission (the “Commission”). Secondly, the Respondent says that including the new allegations would allow the complaint to circumvent the Commission’s screening process. Third, it argues that allowing these additional allegations to be included in the complaint would prejudice the Respondent by denying them the ability to provide an adequate and fulsome response to the complaint. Finally, the Respondent argues that the additional allegations are out of time because the incidents arose years ago, yet the allegations are only being raised for the first time now.

[7] Ultimately, the Respondent requests that the Tribunal strike several paragraphs from Mr. Osiebe’s SOP. Specifically, the Respondent seeks to have the following paragraphs (the “disputed paragraphs”) struck:

- A) Para 34
- B) Paras 36–44
- C) Paras 54–63
- D) Para 149
- E) Para 151
- F) Para 153
- G) Para 154

[8] Both the Complainant and the Commission subsequently and independently submit that these disputed paragraphs should not be struck because they detail allegations that are not new.

[9] The Commission further submits that the allegations detailed in the disputed paragraphs should be read as clarifying, refining or elaborating on Mr. Osiebe’s original complaint and therefore should not be struck from Mr. Osiebe’s SOP.

B. Legal framework

[10] Whether deciding the scope of a complaint or a motion to strike, this Tribunal has found that the same legal principles apply (*Levasseur v. Canada Post Corporation*, 2021 CHRT 32, at para 7 [*Levasseur*]; *AA v. Canadian Armed Forces*, 2019 CHRT 33).

[11] In *Levasseur*, at paragraphs 9 to 17 and 22, the Tribunal has explained how a complaint under the *Canadian Human Rights Act*, R.S.C., 1985, c. H-6 (CHRA) flows from initial receipt by the Commission to being referred to the Tribunal for an inquiry. If referred, the Tribunal assumes jurisdiction over the entire complaint unless the Commission specifies limitations or exclusions (*Levasseur* at para 12). The scope of a complaint is determined by the complaint itself, the Commission's decisions with respect to the complaint and the Commission's letter to the Chairperson of the Tribunal requesting that an inquiry be instituted (*Mohamed v. Royal Bank of Canada*, 2023 CHRT 20 at para 10 [*Mohamed*]). That said, SOPs can be used to refine, clarify and elaborate on the original complaint as submitted to the Commission (*Levasseur* at para 13; *Mohamed* at para 11). This is to account for more detailed facts and circumstances that may have emerged since the initial complaint. The Tribunal allows SOPs to add refining, clarifying and/or more illustrative details than were shared in the original complaint so long as these changes do not cause prejudice to the other parties (*Campos-Ruiz v. Royal Canadian Mounted Police*, 2023 CHRT 17 at para 29).

[12] While this Tribunal has recognized that an SOP can be used to elaborate and offer further details regarding a complaint, the SOP cannot include incidents or allegations that are not logically connected to the original complaint that was filed. In other words, the SOP must reasonably respect the original complaint's factual foundations (*Levasseur* at para 15).

[13] A party wishing to modify, expand or amend the scope of their complaint through their SOP must convince the Tribunal that there is a sufficient connection or nexus between the original complaint that was before the Commission and what has been outlined and argued in the party's SOP before the Tribunal. If the Tribunal finds that there is no reasonable connection between the facts and issues in the SOP and what was detailed in

the original complaint, the Tribunal may determine that the party is improperly seeking to bring forward a totally new complaint (*Levasseur* at para 16).

[14] Additionally, the Tribunal can look beyond the SOP to decide the scope of a complaint it is inquiring into. Other documents that can be consulted include the Commission's investigation report, the letters sent by the Commission to the Chairperson and the parties, and the original complaint filed with the Commission (*Levasseur* at para 17).

[15] In *Temate v. Public Health Agency of Canada*, 2022 CHRT 31 [*Temate*], the Tribunal offers further considerations that this Tribunal must factor in when addressing disputes over issues of scope and addressing motions to strike in each matter (at paras 8–15). These considerations relate to the principle of proportionality. In *Temate*, the Tribunal recognizes that proportionality should inform how the Tribunal addresses issues of scope and motions to strike (at para 13). A mindfulness towards maintaining proportionality in its matters is expressed in subsection 48.9(1) of the CHRA, which requires that the Tribunal conduct its proceedings in a manner that is as expeditious and informal as the rules of natural justice and its Rules of Procedures allow.

[16] The importance of proportionality is reinforced by Rule 5 of the Tribunal's Rules of Procedure which indicates that the Tribunal should approach interpreting and applying its rules in a way that permits each case before the Tribunal to be determined fairly, informally and expeditiously.

[17] Read together, I interpret subsection 48.9(1) and Rule 5 as requiring the parties and the Tribunal to ensure that proceedings before the Tribunal are not unreasonably or unnecessarily complex, lengthy or costly. I also interpret this to mean that the principle of proportionality is to be approached and applied in a manner that is responsive to the importance of maintaining accessibility of the Tribunal for all parties with a matter that has been referred by the Commission for an inquiry.

[18] Finally, this Tribunal has found that it is with caution and only in the "clearest of cases" that the Tribunal should exercise its authority to strike portions of a party's SOP (*Richards v. Correctional Service Canada*, 2020 CHRT 27 at para 86).

C. My reasons

[19] I am not persuaded by the Respondent's arguments for striking the disputed paragraphs from the Complainant's SOP, and I find that the disputed paragraphs should not be struck from the Complainant's SOP.

[20] In paragraphs 34, 36–44, 149, 151 and 153 of Mr. Osiebe's SOP, he alleges that he was discriminated against by being assigned and/or expected to do physical labour. This is not a new allegation, as it was raised in Mr. Osiebe's original complaint to the Commission, dated December 2019, which is pointed out and argued by the Commission to oppose striking these paragraphs.

[21] As the Commission's submissions note, Mr. Osiebe's complaint generated two letters of decision that the Commission issued as part of its referral of Mr. Osiebe's complaint to the Tribunal. In its first letter, the Commission decided (issued December 2022) to refer this matter to the Tribunal if the conciliation process that it ordered the parties to participate in failed. In its second letter (issued January 2024), the Commission determined that the Respondent's offer to settle was not reasonable and therefore referred the matter to the Tribunal. My review of these two letters of decision from the Commission for the purpose of instituting an inquiry into Mr. Osiebe's complaint do not suggest that this allegation is outside of the scope of the inquiry that the Commission determined is warranted in this matter. I find therefore that the allegations related to physical labour should not be struck from Mr. Osiebe's SOP.

[22] Paragraphs 54–59 of Mr. Osiebe's SOP claim that he was delayed and/or denied log-in credentials to submit a FedEx form that was a necessary part of his job. Paragraphs 60–63 of Mr. Osiebe's SOP claim that a co-worker went on his computer without permission and tampered with an Excel spreadsheet that he was responsible for updating daily.

[23] I find that the allegations in paragraphs 54–63 can be reasonably construed as clarifying, refining and elaborating on what was submitted in Mr. Osiebe's original complaint which alleges numerous discriminatory acts at the hands of his co-workers. The two allegations raised in paragraphs 54–63 similarly alleged discrimination on the basis of Mr. Osiebe's colour, race and national or ethnic origin and sex. They occur within the general

timeline of the original complaint, involve similar work settings and include at least one of the same co-workers about whom the complainant has raised other allegations which are not being challenged as being out of the scope of this inquiry. Further, I find that paragraphs 54–63 provide relevant specificity to Mr. Osiebe’s overall complaint.

[24] I also find that paragraph 154 of the Complainant’s SOP should not be struck from his SOP. Paragraph 154 is closely connected to Mr. Osiebe’s allegation of differential treatment in being given access to a certain kind of training. I find that paragraph 154 is an extension and restatement of allegations that were clearly featured in Mr. Osiebe’s original complaint, and which the Respondents have not otherwise challenged.

[25] In sum, I find that all of the disputed paragraphs are sufficiently connected to the chain of events that form the basis of Mr. Osiebe’s original complaint. Having reviewed Mr. Osiebe’s original complaint to the Commission and the Commission’s letters to the Tribunal referring the matter for inquiry, I find that, in different ways, the disputed paragraphs refine, clarify or elaborate on the original complaint.

[26] The disputed paragraphs are logically connected and respect the factual foundations of Mr. Osiebe’s complaint, and I do not find that their inclusion in Mr. Osiebe’s SOP would unduly increase the length, complexity or cost of these proceedings. For these reasons, I am not convinced that the inclusion of the disputed paragraphs in Mr. Osiebe’s SOP prejudices the Respondent or these proceedings. I also do not find that the disputed paragraphs make this instance one of the “clearest of cases” where paragraphs in an SOP should be struck.

IV. ISSUE 2: REQUEST FOR DISCLOSURE AND PARTICULARS

A. Respondent’s position on disclosure and additional particulars

[27] In its SOP, the Respondent makes several requests for disclosure and particulars. Following a Case Management Conference Call (CMCC) held by the Tribunal in October 2024, it was determined that further submissions from the Respondent should be provided to further explain these requests and that the Complainant and the Commission should each

have an opportunity to provide added submissions responding to these requests. The Tribunal opted to receive these submissions in an informal manner by way of letters from the parties outlining their positions.

[28] The Respondent's additional submission by letter was received in mid-November 2024. The Complainant's response letter was received in late November 2024, and the Commission's response letter was received in early December 2024. In a subsequent CMCC in late December 2024, the parties requested a formal ruling from the Tribunal on this outstanding issue of disclosure.

[29] As part of its initial request for disclosure in its SOP, the Respondent takes the position that the Complainant has not yet listed and disclosed all documents in his possession or control that relate to the facts, issues or remedies he is seeking in this complaint.

[30] For ease of reference and to ensure accuracy, I reproduce below the text from the Respondent's SOP that replicates the Respondent's requests for disclosure from Mr. Osiebe:

- Full disclosure and particulars regarding Mr. Osiebe's prior work experience before commencing employment with FedEx Ground, including but not limited to, the name of the employer, his role, the time period relevant to that employment, whether his employment was for a fixed or indefinite duration, and the nature of his cessation from that employment.
- For each employer identified in paragraph 101(a) above as well as any employer that he worked with concurrently while employed with FedEx Ground or thereafter, Mr. Osiebe must also indicate whether he has ever made allegations of discrimination or harassment against that employer and/or employees in that workplace and if so, must provide full particulars related to the nature of the allegations made.
- Full disclosure and particulars regarding Mr. Osiebe's work history with any other employer or business while employed with FedEx Ground between June 10, 2019, to December 27, 2019, including but not limited to, when he commenced employment, his role, compensation, when that work ended and information regarding whether that employment was for a fixed or indefinite duration.
- Full disclosure and particulars regarding Mr. Osiebe's work history after December 27, 2019, including but not limited to, the date he commenced alternate employment,

his work location, role, compensation, when that work ended and information regarding whether that employment for a fixed or indefinite duration.

[31] The Respondent argues that the documents included in the requested disclosure are arguably relevant to the facts, issues and kinds of relief asserted and/or sought in Mr. Osiebe's complaint. The Respondent also argues that the requested disclosure should be produced to ensure that the Respondent is given a fair opportunity to prepare and adequately respond to the claims made by Mr. Osiebe.

[32] Further, the Respondent argues that the documents and information requested should be disclosed because they do not prejudice Mr. Osiebe or the proceedings, and if they do, the probative value of the documents and information sought outweighs any alleged or actual prejudice.

[33] The Respondent also asserts that the disclosure requested that is related to Mr. Osiebe's prior work experience is arguably relevant to Mr. Osiebe's claim that, had he not been discriminated against, he would have been offered permanent employment with FedEx Ground. The Respondent challenges this assertion by Mr. Osiebe by claiming that, before working at FedEx Ground, Mr. Osiebe had at least nine employers in five years. The Respondent uses this claim to support its assertion that Mr. Osiebe's previous work experience and the reasons for the discontinuation of any of his former employment is arguably relevant to Mr. Osiebe's complaint concerning FedEx Ground.

[34] The Respondent also argues that any allegations of discrimination or harassment that Mr. Osiebe has made against any other past or present employer is arguably relevant. Such information and documentation, the Respondent argues, can assist in providing insight into Mr. Osiebe's perception of discrimination in relation to the conduct to his former FedEx Ground co-workers and any work direction that he received.

[35] Additionally, the Respondent submits that its requests for disclosure should be ordered because Mr. Osiebe has not provided any disclosure related to some of the remedies he is seeking. In particular, the Respondent takes issue with Mr. Osiebe not having submitted any disclosure related to his concurrent employment while he worked at FedEx Ground or his job-seeking efforts after the end of his employment with FedEx

Ground. The Respondent also takes issue with the absence of disclosure in relation to Mr. Osiebe's claim that, after his employment with FedEx Ground, he was not able to secure employment in the Victoria, British Columbia area, forcing him to leave the area and causing the dissolution of his marriage. Without disclosure related to these assertions by Mr. Osiebe, the Respondent submits that it is denied full and ample opportunity to present evidence and make representations before the Tribunal, as entitled under section 50(1) of the CHRA.

[36] Finally, the Respondent references Mr. Osiebe's claims for lost wages and other damages to point out that Mr. Osiebe has not produced any documentation that demonstrates that he mitigated or attempted to mitigate any of the damages he alleges were caused by the Respondent. Without such information, the Respondent argues that the Tribunal risks permitting Mr. Osiebe to either receive compensation for losses he did not suffer or that he failed to make reasonable efforts to mitigate.

[37] In his reply SOP, his subsequent letter submission, as well as during CMCCs, Mr. Osiebe has made a number of arguments opposing the requests for disclosure. These include arguing that the requests for disclosure seek to unjustifiably intrude on the privacy of his personal and professional life, submitting that the information and particulars requested are irrelevant, and asserting that the requests are for prejudicial information that is not outweighed by its probative value.

[38] The Commission takes the position that Mr. Osiebe's employment records during and after his employment with FedEx Ground are relevant, as is information related to the breakdown of Mr. Osiebe's marriage. The Commission submits that this information is relevant to Mr. Osiebe's ability to demonstrate whether he mitigated his losses and is also relevant to the remedies he seeks for damages due to pain and suffering.

[39] The Commission also submits that the Respondent's request for Mr. Osiebe's work history prior to his employment with FedEx Ground is not proportionate and seeks irrelevant information. Additionally, it submits that information regarding any previous employment-related allegations that Mr. Osiebe has made of discrimination or harassment is of a prejudicial nature that is not outweighed by its probative value.

[40] The Commission also submits that the Respondent's disclosure requests concerning Mr. Osiebe's pre-FedEx Ground employment history and workplace complaints record before working at FedEx Ground are overly broad and raise the concern of possibly serving to characterize Mr. Osiebe as a vexatious claimant.

B. Legal framework

[41] Parties in proceedings before this Tribunal are entitled to receive disclosure from each other before the hearing. This is a fundamental matter of fairness. The CHRA affirms parties' right to disclosure at section 50(1), which states that the Tribunal must ensure that all parties are given a "full and ample opportunity" to "present evidence and make representations". This cannot happen without the parties receiving disclosure of all documentation that is arguably relevant to the substance of the complaint at issue. Such disclosure must be provided to other parties to give each party a reasonable amount of time to review and determine what may be used by a party to prepare their answer, defence or legal position in the proceeding.

[42] In other words, disclosure of arguably relevant documents enables parties to be aware of the case they are facing, allowing them to effectively prepare themselves for the hearing (*Egan v. Canada Revenue Agency*, 2019 CHRT 8 at para 4).

[43] The Tribunal's Rules of Procedure further reinforce parties' disclosure obligations. Specifically, they direct the parties to disclose all documents in their possession that are not privileged, particularly where they "relate to a fact or issue that is raised in the complaint or to an order sought by any of the parties" (see Rules 18(1)(f), 19(1)(e), 20(1)(e) and 23(1)). The Rules of Procedure also indicate that the parties' disclosure obligations are ongoing (Rule 24(1)).

[44] Where there is a disagreement between the parties concerning the disclosure of certain documents, the Tribunal can order the information in dispute to be disclosed if the Tribunal determines that the information is "arguably relevant" to the complaint before the Tribunal (*Brickner v. RCMP*, 2017 CHRT 28 at para 5). To obtain such an order, the party seeking disclosure must establish that the document(s) being sought is/are rationally

connected to a fact, issue or remedy at issue in the matter. Determining whether a document is arguably relevant is informed by the content of the parties' SOPs (*Casler v. CNR*, 2017 CHRT 6 at para 9).

[45] As it is with all matters related to the Tribunal's proceedings, the standard of arguable relevance in determining disclosure obligations should be balanced by considerations of the principle of proportionality.

[46] To help ensure proportionate disclosure, despite arguable relevance being a relatively low threshold to meet, the Tribunal must consider whether the disclosure requested unnecessarily increases the cost, complexity and/or time of the proceeding. It also requires factoring in such things as the relative means of the parties and the need to maintain the accessibility of the Tribunal in the sense of minimizing unnecessary barriers to full, fair and equitable participation of parties before the Tribunal.

[47] Additionally, proportionate disclosure considers the nature and quality of documentation and information needed to expeditiously and/or informally determine the specific facts, issues and remedies at issue in the complaint in a manner that respects the principles of natural justice and the Tribunal's Rules of Procedure, particularly Rule 5 (*Temate* at paras 8–12).

[48] Ultimately, the principle of proportionality helps the Tribunal avoid granting requests for production that are speculative, that amount to "fishing expeditions" or that subject recipients to unnecessarily far-reaching and/or onerous searches for documents and information (*Nwabuikwu v. RCMP*, 2020 CHRT 9 at para 16).

[49] It is also important to note that any documents that the Tribunal orders to be disclosed at the pre-hearing stage of its proceedings are not to be considered evidence, as the documents must still be formally admitted into evidence at the hearing and given whatever weight the Tribunal determines is fair, reasonable and appropriate (*Cox v. Northwest Truck Lines Inc et al.*, 2024 CHRT 135).

C. My reasons

[50] In my view, only some of the documentation and information requested by the Respondent should be ordered disclosed.

[51] Specifically, the following documents should be disclosed by Mr. Osiebe, and the following particulars should be included in an amended SOP:

- A) Disclosure and particulars about any of Mr. Osiebe's concurrent work experience during his employment with FedEx Ground (from June 10, 2019, to December 27, 2019), including the name of the employer, his role and general job duties, the start and end date(s) of this employment, his compensation, the nature of his employment contract (i.e., part-time, full-time, fix-term, permanent, seasonal, etc.) and the reason(s) that the employment relationship ended.
- B) Disclosure and particulars about Mr. Osiebe's work history after December 27, 2019, including the name of the employer, his role and general job duties, the start and end date(s) of this employment, his compensation, the nature of his employment contract (i.e., part-time, full-time, fix-term, permanent, seasonal, etc.) and the reason(s) that the employment relationship ended.
- C) Disclosure and particulars about Mr. Osiebe's claim of having to leave Victoria, British Columbia, to find employment and his submission that this was a major factor in his marriage ending.

[52] I find that this information and documentation should be disclosed by Mr. Osiebe so that the Respondent can have full and ample opportunity to prepare and make representations that answer to the specifics of the complaint brought forward by Mr. Osiebe.

[53] These items are arguably relevant to the facts, issues and remedies argued in Mr. Osiebe's materials because they relate to the specific allegations of employment discrimination being advanced by Mr. Osiebe. I do not find that ordering this disclosure would in some way amount to an unjustified intrusion into his personal or professional life.

[54] I agree with the Commission's submission that these items speak to the issue of mitigation of damages for lost wages and also provide needed details for clarity on Mr. Osiebe's claim for damages for pain and suffering due to being unable to secure employment in Victoria, British Columbia, and the impact this allegedly had on his marriage. As such, I find that the information and documentation are rationally connected to Mr. Osiebe's SOP materials.

[55] Further, following the principle of proportionality, I find that these specific items should be disclosed because this part of the Respondent's request is proportionate to the direct facts, issues and remedies of concern in the core dispute before the Tribunal.

[56] In other words, I do not find that providing this disclosure would unduly increase the cost, complexity or timing for the conduct of this inquiry to the extent of unfairly burdening Mr. Osiebe, or unnecessarily compromising general access to this Tribunal by creating procedural challenges, costs or delays that would impede the Tribunal's timely, fair and effective addressing of other matters before the Tribunal.

[57] The documentation and information that I am not prepared to order be disclosed is as follows:

- Full disclosure and particulars regarding Mr. Osiebe's prior work experience before commencing employment with FedEx Ground, including but not limited to, the name of the employer, his role, the time period relevant to that employment, whether his employment was for a fixed or indefinite duration, and the nature of his cessation from that employment.
- For each employer identified in the paragraph immediately above, as well as any employer that he worked with concurrently while employed with FedEx Ground or thereafter, information and full particulars about whether Mr. Osiebe has ever made allegations of discrimination or harassment against another employer and/or employees in that workplace, and if so, the nature of the allegations made.

[58] This complaint, as referred to the Tribunal by the Commission, is solely about Mr. Osiebe's alleged experience with FedEx Ground and its employees. It does not concern any other employers. As such, I do not find documentation about his entire work history pre-FedEx Ground or particulars about all other instances where he may have made allegations of discrimination or harassment against another employer to be arguably relevant to the specific issues and allegations in dispute in Mr. Osiebe's complaint.

[59] I am of the view that, with the disclosure that Mr. Osiebe has already provided and that is ordered in this ruling, the Respondent will be able to adequately prepare and respond to the case against it.

[60] Along with the disclosure already provided and ordered in this ruling, the Respondent, in preparing and responding to Mr. Osiebe's claims, will also have the

Commission's disclosure package which also appears to contain an extensive list of documents, as well as Mr. Osiebe's proposed witnesses. It appears that, together, these make up a sufficiently robust assortment of material and sources from which the Respondent can prepare and respond to the allegations made by Mr. Osiebe. In other words, denying the Respondent's request to have Mr. Osiebe disclose documentation related to his non-FedEx Ground work history and complaints history does not deny the Respondent its right to have a full and ample opportunity to challenge Mr. Osiebe's perception of work direction and of his former co-workers at FedEx Ground.

[61] I am unconvinced by the Respondent's arguments that information about other co-workers in other workspaces is necessary or valuable for helping the Tribunal make findings in respect of the specifics of Mr. Osiebe's alleged experience with FedEx Ground and its employees.

[62] I find that requiring the additional disclosure about his work history and any other complaints of discrimination would be contrary to the principle of proportionality and would permit the Respondent to improperly use the disclosure process as a fishing expedition. To have Mr. Osiebe assemble and produce the requested documentation on his entire work history when this is not raised in his complaint would be unfairly onerous. It would also require unreasonably far-reaching searches for documentation that I am not convinced is necessary for the Tribunal to make findings and render a fair ruling on the merits and remedies sought in this particular complaint.

[63] Further, the Respondent has not presented sufficient information or persuasive argument to require Mr. Osiebe to produce the information requested about his previous employment history. On the sole basis of Mr. Osiebe having had many different employers over a relatively short period of time, I am not prepared to find that Mr. Osiebe's entire work history is then arguably relevant to the specifics of the present complaint before the Tribunal.

[64] To order this disclosure without being presented with more compelling information than I have received in the Respondent's submissions undermines the fairness of these proceedings by significantly lowering the accessibility of the Tribunal for Mr. Osiebe and almost certainly other Complainants seeking to advance a claim of employment

discrimination under the CHRA. This is especially so in instances where a Complainant is self-represented, as Mr. Osiebe is. This is to say, without more compelling facts or information to do so, I find that it is not reasonable for this Tribunal to order the requested disclosure and particulars regarding his previous work experience or other possible complaints of discrimination/harassment. Ordering this disclosure would run contrary to the Tribunal's requirement to proceed in a manner that is fair, expeditious and informal. This information does not appear to me to be sufficiently related or adequately relevant to the present complaint before the Tribunal.

[65] I also find that it would be prejudicial to Mr. Osiebe to require him to disclose all instances of other complaints of discrimination or harassment made against other employers. I am not persuaded by the Respondent's submission that the probative value outweighs the prejudicial effect of having such material before the Tribunal.

[66] I have not been presented with sufficient or persuasive information to justify ordering disclosure of any other allegations of discrimination or harassment Mr. Osiebe has made against his other employers. Making such an order would be more reasonable if I had been given information about Mr. Osiebe's experience with another employer (past or present) revealing details of one or more occurrences with a set of facts and/or issues closely related to the particular allegations of employment discrimination being advanced by Mr. Osiebe in this matter currently before the Tribunal.

[67] This is to say, I am persuaded by the Commission's submission that the Respondent's disclosure request is overly broad and unreasonably risks improperly framing Mr. Osiebe as a vexatious claimant. I have no reason to believe that Mr. Osiebe's current complaint before me is trivial, frivolous, vexatious or made in bad faith, given that the Commission agreed to deal with the complaint and did not dismiss it under section 41(1)(d) of the CHRA, as the Commission is authorized to do. I am also not aware of the Respondent submitting a judicial review challenging the Commission's decision to either receive Mr. Osiebe's complaint or refer it to the Tribunal.

[68] In any case, ordering disclosure of Mr. Osiebe's complaints history would unduly risk sending the signal to current and potential complainants before the Tribunal that, even when

their complaint is about a single discriminatory practice involving a particular employer, the complainants should be prepared to onerously search for documentation concerning similar allegations they have made against any other employers. It would also suggest that complainants must be prepared to answer questions before the Tribunal about the nature, circumstance and outcome of these other complaints. This would apply even if none of those previous complaints were previously brought before or tested by the Commission or the Tribunal. Without more reason to do so than has been argued before me so far, I find that it would be beyond the boundaries of procedural fairness and natural justice for the Tribunal to proceed in this way. Such disclosure would seriously increase the potential of circumventing the Commission's complaints screening authority, which is what the Respondent has argued this Tribunal should avoid doing.

[69] It would also be a significant waste of Tribunal resources to allow complaints to proceed in this disproportionate way, as it would likely result in inordinate increases to the cost, complexity and time to get to and through a hearing before this Tribunal. I am also in agreement with the Commission's submission that the scope of the Respondent's request should be limited to avoid illegitimately burdening complainants, especially unrepresented complainants, with requests for disclosure about irrelevant and unrelated employment discrimination claims that may unfairly prejudice complainants and distract from the actual issues and specific facts in dispute that are before the Tribunal.

[70] In sum, based on what has been presented to me by the parties, it would not be reasonable, proportionate or fair for this Tribunal to order that Mr. Osiebe disclose the requested documentation or particulars regarding his entire work history pre-FedEx Ground, or other instances of discrimination or harassment complaints that he may have made against other employers at some point during the Complainant's working life.

V. ORDERS

[71] The Respondent's request to strike certain paragraphs from the Complainant's SOP is dismissed.

[72] The Respondent's request for the Complainant to produce additional disclosure is granted in part.

[73] Within 45 days of the date of this Ruling, Mr. Osiebe is ordered to provide the following documents (to the extent that they are in his possession or that he has access to them and they are not privileged) to the parties and to amend his SOP by adding these additional particulars, as applicable:

- I. Disclosure and particulars about any of Mr. Osiebe's concurrent work experience during his employment with FedEx Ground (from June 10, 2019, to December 27, 2019), including the name of the employer, his role and general job duties, the start and end date(s) of this employment, his compensation, the nature of his employment contract (i.e., part-time, full-time, fix-term, permanent, seasonal, etc.) and the reason(s) that the employment relationship ended.
- II. Disclosure and particulars about Mr. Osiebe's work history after December 27, 2019, including the name of the employer, his role and general job duties, the start and end date(s) of this employment, his compensation, the nature of his employment contract (i.e., part-time, full-time, fix-term, permanent, seasonal, etc.) and the reason(s) that the employment relationship ended.
- III. Disclosure and particulars about Mr. Osiebe's claim of having to leave Victoria, British Columbia, to find employment and his submission that this was a major factor in his marriage ending.

[74] In making this ruling, I also remind the parties that Rule 24(1) of the Tribunal's Rules of Procedure creates disclosure obligations that are ongoing. This means that the parties are expected and required to disclose all documents listed in their SOPs to which privilege does not apply.

Signed by

Anthony Morgan
Tribunal Member

Ottawa, Ontario
March 14, 2025

Canadian Human Rights Tribunal

Parties of Record

Tribunal File: HR-DP-2986-24

Style of Cause: Mudiaga John Osiebe v. FedEx Ground Package System Limited

Ruling of the Tribunal Dated: March 14, 2025

Motion dealt with in writing without appearance of parties

Witten representations by:

Mudiaga John Osiebe, for himself

Laure Prévost, for the Canadian Human Rights Commission

Marco Fimiani and Tim Lawson, for the Respondent