

**Canadian Human  
Rights Tribunal**



**Tribunal canadien  
des droits de la personne**

**Citation:** 2025 CHRT 30

**Date:** April 22, 2025

**File No(s):** HR-DP-2915-22

**Between:**

**Patrick James**

**Complainant**

**- and -**

**Canadian Human Rights Commission**

**Commission**

**- and –**

**Trentway-Wagar Inc.**

**Respondent**

**Ruling**

**Member:** Gary Stein

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## **I. OVERVIEW AND DECISION**

[1] The Respondent has brought a motion to permanently stay (suspend) the Tribunal's inquiry of a human rights complaint filed by Patrick James, the Complainant. For the purposes of this ruling, I treat the motion as a request for a summary dismissal of the complaint.

[2] The Respondent seeks to have the complaint dismissed due to its court application under the *Companies' Creditors Arrangement Act*, R.S.C., 1985, c. C-36 (CCAA) and the orders of the Ontario Superior Court of Justice (the "Superior Court") made under the CCAA. The Respondent also requests that I dismiss the complaint under the *Bankruptcy and Insolvency Act*, R.S.C., 1985, c. B-3 (BIA). Lastly, the Respondent submits that dismissing the complaint would avoid a waste of the Tribunal's resources.

[3] The Respondent's motion is dismissed for the following reasons:

- A. First, the Tribunal retains jurisdiction to hear the complaint despite the Respondent's court application under the CCAA. The CCAA does not bar the Tribunal from proceeding with an inquiry under the Canadian Human Rights Act, R.S.C., 1985 c. H-6 (CHRA).
- B. Second, the Respondent has not persuaded me that there is a legal basis for a stay of this inquiry under the BIA.
- C. Third, despite the Respondent's insolvency, it is not a waste of the Tribunal's resources to continue this inquiry. The circumstances do not meet the threshold to justify a summary dismissal of the complaint.

## **II. PRELIMINARY MATTERS**

### **A. The Respondent's name is amended to Trentway-Wagar Inc.**

[4] Mr. James's complaint to the Canadian Human Rights Commission (the "Commission"), and his Statement of Particulars (SOP) for the Tribunal inquiry, identifies the Respondent as "Coach Canada". However, counsel for the Respondent informed the

Tribunal that Coach Canada is a business name only and that the Respondent's correct legal name is Trentway-Wagar Inc.

[5] I accept that Coach Canada is a trade name and that Trentway-Wagar is the Respondent's correct legal name. Based on the Tribunal's authority to control its process, the title of proceedings in this matter is amended to refer to the Respondent as Trentway-Wagar Inc. ("Trentway-Wagar"). Going forward, all Tribunal documents will identify the Respondent by this name. However, for ease of reference, Mr. James may, if he wishes, continue to refer to the Respondent as Coach Canada.

**B. The Respondent is no longer represented by counsel and is no longer participating in the proceedings**

[6] Counsel for the Respondent informed the Tribunal that they no longer represent the Respondent. As Trentway-Wagar no longer has any employees, officers or directors, they are also unable to provide contact information for a Respondent representative. Counsel describes the Respondent as a defunct, bankrupt and non-existent corporate respondent. Counsel states that, if the Tribunal inquiry proceeds to a hearing, no representative of the Respondent will attend. Based on this information, the Tribunal is not sending this ruling or any further communications to the Respondent about the continuing inquiry or a future hearing.

**III. BACKGROUND**

[7] Mr. James is a Black man. Trentway-Wagar operated the Coach Canada/Megabus bus lines. Mr. James's human rights complaint alleges that Trentway-Wagar discriminated against him based on his race and colour. It alleges that, in July 2019, Trentway-Wagar employees racially profiled Mr. James when he was a passenger on a Megabus and did not properly respond to Mr. James's complaint to the company about the incident. Mr. James's SOP also refers to an alleged incident involving unprofessional conduct by Trentway-Wagar in November 2023.

[8] In December 2022, the Commission referred Mr. James's complaint to the Tribunal for inquiry. In 2024, while the Tribunal was case managing the complaint and preparing the parties for a hearing, counsel for Trentway-Wagar informed the Tribunal that the Respondent was insolvent.

[9] Trentway-Wagar is owned by Coach USA, an American company. On June 11, 2024, Coach USA and its affiliated companies filed for bankruptcy protection in the United States.

[10] On June 14, 2024, the Superior Court made an order that recognized the United States Bankruptcy Court's orders involving these companies and suspended legal proceedings involving Trentway-Wagar and other companies in all Canadian courts or tribunals.

[11] The Superior Court's further order of August 23, 2024, approved the sale of Trentway-Wagar's assets, free and clear of all claims or encumbrances, to Newcan Coach Company ULC.

[12] On October 31, 2024, Trentway-Wagar completed the sale of its assets and ceased business operations in Canada.

[13] The Superior Court's order of December 2, 2024, terminated the CCAA proceedings.

#### **IV. ISSUE**

[14] Should the Tribunal grant the Respondent's motion for a summary dismissal of the complaint for one or more of the following reasons:

- A. Do the Superior Court's orders or the CCAA stay the Tribunal's inquiry?
- B. Does the Bankruptcy and Insolvency Act stay the Tribunal's inquiry?
- C. Should the Tribunal dismiss the inquiry because Tribunal resources would be wasted by continuing it?

## V. ANALYSIS

### A. Do the Superior Court's orders or the CCAA stay the Tribunal's inquiry?

[15] The Superior Court's orders do not stay the Tribunal's inquiry, nor does a provision of the CCAA.

[16] The Superior Court's order of June 14, 2024, suspended all court and tribunal proceedings against Trentway-Wagar, pending the Superior Court's further order. However, its order also stated that nothing in the order affects proceedings by a "regulatory body" under the CCAA.

[17] According to the CCAA:

- A. A regulatory body is a body that has powers, duties or functions relating to the enforcement or administration of an act of Parliament (section 11.1(1) of the CCAA).
- B. No court order to stay or restrain further proceedings against a company affects a regulatory body's proceeding in respect of the company, other than a proceeding to enforce a payment that the regulatory body ordered (section 11.1(2) of the CCAA).

[18] The Respondent submits that the Tribunal is a regulatory body under the CCAA. The Commission submits that the Tribunal may be a regulatory body under the CCAA.

[19] The Commission refers to a decision of the Canada Industrial Relations Board (CIRB) in which the CIRB stayed its proceedings based on a Superior Court's stay order under the CCAA (*Air Canada*, 2003 CIRB 225). However, I do not find this decision to be persuasive. The excerpts from the Superior Court's order in this decision make no reference to the CCAA provision about regulatory bodies, and the decision itself does not consider whether the CIRB may be a regulatory body under the CCAA.

[20] Because of the Tribunal's authority under the CHRA to adjudicate claims of discrimination that the Commission has referred to it, the Tribunal is a regulatory body under the CCAA (sections 48.9(1), 49(2), 50 and 53(2) of the CHRA). The Tribunal's authority is similar to other adjudicative bodies that have been found to be regulatory bodies under the CCAA (*Worldspan Marine Inc. (Re)*, 2011 CanLII 152416 (BC EST) at paras 32–41; *Sears*

*Canada Inc. v International Brotherhood of Electrical Workers, Local 213*, 2017 CanLII 69395 (BC LRB) at para 40; *Terrace Bay Pulp Inc. (Re)*, 2013 ONSC 5111 at para 18).

[21] I also find that the Tribunal's inquiry does not involve proceedings to enforce a payment against Trentway-Wagar, which, by the operation of section 11.1(2) of the CCRA, a regulatory body may not continue.

[22] The Respondent cites the Supreme Court of Canada's decision in *Newfoundland and Labrador v. AbitibiBowater Inc.*, 2021 SCC 67 for its submission that a regulatory body's proceedings may continue despite a stay, unless they are monetary in nature. However, if the Tribunal hears a complaint and substantiates it, the Tribunal is authorized to make remedial orders that may be monetary and non-monetary (sections 53(2) and 53(3) of the CHRA). The Tribunal is not prohibited from continuing its inquiry at least to the extent that any remedial orders may be non-monetary.

[23] I conclude that the Superior Court's orders in the CCAA proceedings do not bar the continuation of the Tribunal's proceedings.

[24] Moreover, the Superior Court's order of December 2, 2024, terminated the CCAA proceedings involving Trentway-Wagar, at which point the issue of a stay of the Tribunal's proceedings under the CCAA became moot.

#### **B. Does the *Bankruptcy and Insolvency Act* stay the Tribunal's inquiry?**

[25] During a case management conference call about the Respondent's motion, counsel for the Respondent stated that the BIA permanently stayed all pre-bankruptcy proceedings involving the Respondent, despite the termination of court proceedings under the CCAA. I asked counsel for further submissions about the authority in support of this position.

[26] The Respondent's further submissions stated that, after the CCAA proceedings terminated in December 2024, the proceedings in the United States were converted to proceedings under the US Bankruptcy Code. This information is not sufficient to convince me that there is a permanent stay of proceedings under the BIA.

[27] The Respondent's full submissions on the motion also do not demonstrate that a permanent stay of proceedings under the BIA is in effect. The Respondent's submissions refer only to the proceedings under the CCAA. They do not address any sections of the BIA, or any case law under the BIA, or explain how the stay of proceedings that the Superior Court ordered would continue under the BIA after the CCAA proceedings ended. There is also no evidence before me of any proceedings or orders made under the BIA. Therefore, I find that there is no legal basis for a stay of the inquiry under the BIA.

**C. Should the Tribunal dismiss the inquiry because Tribunal resources would be wasted by continuing it?**

[28] The Tribunal has the authority to dismiss a complaint without conducting a full inquiry when hearing a case would amount to an abuse of process (*Canada (Canadian Human Rights Commission) v. Canada (Attorney General)*, 2012 FC 445 at paras 136–138).

[29] Although the Respondent did not frame this request as one based on an abuse of process, I am satisfied that this argument amounts to a claim of abuse of process.

[30] The Respondent submits that, if the Tribunal continues this inquiry, and if the Tribunal decides in the Complainant's favour after a hearing, any remedy made in favour of the Complainant would be purely theoretical because no entity remains to be held liable for a monetary or non-monetary award.

[31] The Commission submits that, the Respondent's lack of assets and employees may make it difficult for the Complainant to enforce any remedies.

[32] The Tribunal is authorized to conduct inquiries about human rights complaints and, where appropriate, to issue remedial orders (section 53 of the CHRA). As a matter of procedural fairness and in accordance with the Tribunal's statutory mandate, the Tribunal gives the parties a full and ample opportunity to present evidence and make representations (section 50 of the CHRA; *Richards v. Correctional Service Canada*, 2020 CHRT 27 at paras 86–87).



[33] If, after a hearing, the Tribunal substantiates a complaint, it subsequently has the discretion to make remedial orders (section 53(2) of the CHRA). There is no basis to dismiss a complaint before a hearing, on a preliminary basis, because an effective remedy might not be available for a substantiated complaint (*Murray v. Immigration and Refugee Board*, 2013 CHRT 2 at para 56). Nor should a complaint be pre-emptively dismissed due to the potential for practical difficulties in enforcement.

[34] The Respondent's sole argument is that continuing this proceeding would waste Tribunal resources because any potential remedy would not be enforceable against the insolvent Respondent. This argument does not meet the high threshold for dismissing a complaint based on an abuse of process (*Law Society of Saskatchewan v. Abrametz*, 2022 SCC 29 at para 76).

[35] The issue of fairness must be considered on a motion to dismiss a complaint based on an alleged abuse of process. The Respondent has not persuaded me that it would be unfair and contrary to the interests of justice if I allow the Tribunal's inquiry to proceed (*Blencoe v. British Columbia (Human Rights Commission)*, 2000 SCC 44 at para 120).

[36] Continuing this inquiry does not waste Tribunal resources. The CHRA provides an extensive and fair process for individuals to complain about alleged discriminatory practices, for the Commission to investigate complaints, and for the Tribunal to hear complaints that the Commission refers to it, decide them, and make remedial orders where appropriate. If the Tribunal were to narrow its role by dismissing complaints because of the inefficiency of hearing complaints in which remedial orders might not be enforceable, the CHRA's broad purpose of proscribing discrimination, and the accessibility of the human rights complaint determination process, would be undermined.

[37] The fact that the Respondent is insolvent and has no assets, employees or directors does not justify the dismissal of this complaint.

**VI. ORDER**

[38] The Respondent's motion is dismissed. The Tribunal's inquiry will proceed.

*Signed by*

Gary Stein  
Tribunal Member

Ottawa, Ontario  
April 22, 2025

## **Canadian Human Rights Tribunal**

### **Parties of Record**

**Tribunal File:** HR-DP-2915-22

**Style of Cause:** James v. Trentway-Wagar Inc.

**Ruling of the Tribunal Dated:** April 22, 2025

**Motion dealt with in writing without appearance of parties**

**Written representations by:**

Patrick James, for himself

Sameha Omer, for the Canadian Human Rights

Jordynne Hislop and Amy R. Tibble, for the Respondent