Canadian Human Rights Tribunal

Tribunal canadien des droits de la personne

Citation: 2025 CHRT 47
Date: May 21, 2025
File No.: T2557/11420

Between:

Narges Mahmoudi

Complainant

- and -

Canadian Human Rights Commission

Commission

- and -

Immigration, Refugees and Citizenship Canada

Respondent

Decision

Member: Jo-Anne Pickel

I. OVERVIEW

[1] These are my reasons for dismissing this complaint.

[2] The Complainant and over 50 other individuals filed complaints with the Canadian Human Rights Commission (the "Commission") in or around 2018 ("individual complaints"). In broad terms, the Complainants are all Iranian nationals, who alleged that Immigration, Refugees and Citizenship Canada, Public Safety Canada (IRCC), the Respondent, discriminated against them on the basis of national or ethnic origin in the delayed processing of their applications for permanent resident status, visas or citizenship. In addition to these complaints, a group of over 40 other Complainants filed complaints making the same allegations against IRCC, Canada Border Services Agency and the Canadian Security Intelligence Service ("group complaints").

[3] As detailed below, the Tribunal provided the Complainant with multiple chances to repair deficiencies in his Statement of Particulars (SOPs) but he has failed to do so. The Respondent has brought a motion requesting the dismissal of the complaint.

II. DECISION

[4] I grant the Respondent's motion to dismiss this complaint. The Complainant has failed to comply with the Tribunal's ruling, directions and the *Canadian Human Rights Tribunal Rules of Procedure, 2021* (the "Rules of Procedure") without any explanation. In addition, there is no basis on which to believe that he has the intention to move his case forward by repairing his deficient SOP.

III. ISSUES

[5] This decision addresses the following issue: whether the Complainant's failure to comply with the Tribunal's ruling, directions and Rules of Procedure warrants the dismissal of his complaint.

IV. ANALYSIS

A. Multiple opportunities provided to repair deficiencies in SOPs

[6] The related complaints referred to above have a long history which is described in a previous decision of the Tribunal: *Irannejad et al. v. Immigration, Refugees and Citizenship Canada, Public Safety Canada, Canada Border Services Agency and Canadian Security Intelligence Service*, 2024 CHRT 23. As detailed in that decision, the Tribunal initially placed the complaints on hold pending the outcome of a review by the National Security Intelligence and Review Agency (NSIRA). The Tribunal took the complaints out of abeyance in April 2024 following the completion of the NSIRA review. The Tribunal initially set August 14, 2024, as the deadline for the Complainant to file an SOP. The Complainant filed his SOP on August 15, 2024.

[7] In December 2024, the Tribunal dismissed complaints filed by 19 other Complainants as abandoned: *Haddadnia et al. v. Immigration, Refugees and Citizenship Canada, Public Safety Canada, Canada Border Services Agency, Canadian Security Intelligence Service*, 2024 CHRT 134.

[8] In a case management conference call held with Complainants who filed individual complaints against IRCC in January, 2025, the Respondent took the position that most of the SOPs that had been filed were deficient to the point of not complying with the Rules of Procedure. The Respondent noted that many of the Complainants used a template SOP that was not sufficiently particularized to each Complainant's own situation. The Chair of the Tribunal, who was assigned these cases at the time, explained to the Complainants the information that must be included in their SOPs. She provided the Complainant and other individual Complainants with an extension until January 21, 2025, to repair deficiencies in their SOPs. Even after this date, the Respondent continued to take the position that many SOPs remained deficient. This included the Complainant's SOP.

[9] In January 2025, I directed the Respondent to forward to the Tribunal a list of the alleged deficiencies for each of the SOPs that, in the Respondent's view, did not comply with the Rules of Procedure. I reviewed each of the affected SOPs and the Respondent's

list of alleged deficiencies. Following this, on February 13, 2025, I issued rulings to the affected Complainants directing them to repair their deficient SOPs. The rulings specifically identified the portions of each SOP that were deficient and explained why it was deficient. I clearly listed the information that each Complainant needed to provide to repair their deficient SOP. I provided the affected Complainants until March 3, 2025, to repair the deficiencies in their SOPs. The Complainant was one of the Complainants who received a ruling directing him to repair deficiencies in his SOP. The Complainant did not respond to my February 13, 2025, ruling, and the time for doing so has long passed.

[10] In a case management conference call with the parties on March 25, 2025, the Respondent indicated that it would seek the dismissal of any complaints filed by Complainants who failed to reply to my February 13, 2025 ruling. I directed the Respondent to file its motions by April 1, 2024 and I set April 15, 2025 as the deadline for Complainants to file their responses to the motion. After the Respondent filed its motions on April 1, 2025, I sent an email to all Complainants who were subject to the motions to remind them that the deadline for their response to the motions was April 15, 2025. The Complainant never responded to the Respondent's motion. In addition, I have not been presented with information about any challenges or personal circumstances faced by the Complainant to explain his lack of response to my February 13, 2025, ruling or to the Respondent's motion to dismiss his complaint.

B. Legal principles and their application

[11] The opportunity for an individual to make a claim of discrimination to a publicly funded human rights tribunal is of great significance. However, this opportunity comes with the obligation to follow the Tribunal's process and to comply with its rulings, directions and Rules of Procedure. The Tribunal's process is less formal than that of a court and aims to enhance access, including for parties who may be self-represented. However, this informality should not be interpreted to mean that parties may take a casual attitude towards complying with Tribunal rulings or directions. There may be circumstances which justify a party's failure to comply with a Tribunal ruling or direction. However, a complainant who does not respond to a Tribunal ruling or direction, without valid reason, risks having their complaint dismissed

(see Rule 9 of the Rules of Procedure; see also *Ouwroulis v. New Locomotion*, 2009 HRTO 335 at paras 4–7).

[12] The Tribunal must conduct proceedings as informally and expeditiously as the requirements of natural justice and the Rules of Procedure allow (s. 48.9(1) of the *Canadian Human Rights Act*, R.S.C., 1985, c. H-6; see also Rule 5 of the Rules of Procedure). It is a complainant's responsibility to advance their file and keep their contact information up to date (*Towedo v. Correctional Service Canada*, 2024 CHRT 6 at paras 4–5).

[13] Although the Respondent has framed its submissions around the issue of delay, I find that the key issue in their motion relates to the failure by the Complainant to comply with the Tribunal's February 13, 2025, ruling, its directions and Rules of Procedure.

[14] The Tribunal has applied a test called the *Seitz* test in cases where a motion has been brought under Rule 9 which addresses the consequences of non-compliance with the Rules of Procedure or the Tribunal's orders (see *Oleson v. Wagmatcook First Nation*, 2023 CHRT 3 applying the test developed in *Seitz v. Canada*, 2002 FCT 456 at paras 16–18). This test requires the Tribunal to consider whether (i) there has been wholesale disregard for the Tribunal's time limits and Rules of Procedure; (ii) the case has remained static for an unreasonable length of time; and (iii) the complainant appears to have no intent to bring the case to a conclusion. In the absence of any counterarguments from the Complainant, I am prepared to find that the *Seitz* test is an appropriate one for determining whether this complaint should be dismissed.

[15] As noted above, I provided the Complainant with several extensions to repair deficiencies in his SOP, culminating in my February 13, 2025, ruling. The Complainant never replied to my ruling, nor to the Respondent's motion to dismiss. In these circumstances, I find that the Complainant's ongoing failure to repair deficiencies in his SOP is sufficient to amount to a wholesale disregard for the Tribunal's ruling, directions and Rules of Procedure.

[16] I also agree with the Respondent that this complaint has remained static for an unreasonable period, as the deficiencies in Complainant's SOP have been left unaddressed for approximately eight months. More importantly, there is no sign that the Complainant intends to move his case forward by repairing the deficiencies in his SOP. Two other

Complainants repaired the deficiencies in their SOPs after receiving the Respondent's motion to dismiss. I am not dismissing their complaints. By contrast, the Complainant has not taken any steps to respond to the Respondent's motion or to repair the deficiencies in his SOP, even after he received the motion to dismiss. In these circumstances, there is no sign that the Complainant intends to ever repair the deficiencies in his SOP.

[17] I am keenly aware that many of the Complainants in these related cases have become frustrated by the significant period of time that has elapsed since they filed their complaints. However, that is not a valid reason to disregard Tribunal rulings and directions that are specifically being made in order to move the complaints forward as expeditiously as possible while also respecting procedural fairness for the Respondent.

V. ORDER

[18] For the reasons set out above, this complaint is dismissed.

Signed by

Jo-Anne Pickel
Tribunal Member

Ottawa, Ontario
May 21, 2025

Canadian Human Rights Tribunal

Parties of Record

File No.: T2557/11420

Style of Cause: Narges Mahmoudi v. Immigration, Refugees and Citizenship Canada

Ruling of the Tribunal Dated: May 21, 2025

Motion dealt with in writing without appearance of parties

Written representations by:

J. Sanderson Graham, Helen Gray, Jennifer Francis and Clare Gover, for the Respondent