

**Canadian Human
Rights Tribunal**



**Tribunal canadien
des droits de la personne**

Citation: 2025 CHRT 54

Date: May 21, 2025

File No.: T2585/14220

Between:

Maziar Mardan

Complainant

- and -

Canadian Human Rights Commission

Commission

- and -

Immigration, Refugees and Citizenship Canada

Respondent

Ruling

Member: Jo-Anne Pickel

I. OVERVIEW

[1] These are my reasons for denying the Respondent's motion to dismiss 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 (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 Complainant failed to repair his deficient Statement of Particulars (SOPs) until the Respondent brought a motion requesting the dismissal of his complaint.

II. DECISION

[4] I deny the Respondent's motion because the Complainant has now repaired the deficiencies in his SOP.

III. ISSUES

[5] This decision addresses the following issue: whether the Complainant's initial 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 initial SOP on August 13, 2024.

[7] However, the Respondent took the position that the SOP filed by the Complainant, as well as others, was deficient to the point of not complying with the Canadian Human Rights Tribunal Rules of Procedure, 2021 (SOR/2021-137) (the “Rules of Procedure”). On February 13, 2025, I issued a ruling to the Complainant directing him to repair his deficient SOP. The Complainant did not respond to my ruling.

[8] The Respondent filed a motion to dismiss the complaint on April 1, 2025. On April 10, 2025, the Complainant asked for an extension of time to repair his SOP. I denied his request but advised him that he could explain his failure to respond to my ruling in his response to the Respondent’s motion. On April 14, the Complainant filed an amended SOP that, while not perfect, sufficiently addresses the deficiencies identified in my February 13, 2025 ruling.

B. Legal principles and their application

[9] 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).

[10] 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).

[11] 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.

[12] 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.

[13] I agree with the Respondent that the Complainant should have repaired the deficiencies in his SOP long before he finally did. The Complainant is not free to simply disregard the Tribunal's directions and rulings on the assumption that there will be no consequences for doing so. Overall, given the Complainant's filing of an amended SOP, I

am not prepared to find that the third part of the *Seitz* test is met. I also do not agree with the Respondent that I am *functus officio* as that doctrine only applies in situations where a tribunal or court has made a final decision on the merits of a case. Even if I am prepared to accept the Complainant's amended SOP, I am putting him notice that any further disregard of the Tribunal's directions and rulings may lead to the dismissal of his complaint.

V. ORDER

[14] For the reasons set out above, the Respondent's motion is denied.

Signed by

Jo-Anne Pickel
Tribunal Member

Ottawa, Ontario
May 21, 2025

Canadian Human Rights Tribunal

Parties of Record

File No.: T2585/14220

Style of Cause: Maziar Mardan 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