

**Canadian Human
Rights Tribunal**



**Tribunal canadien
des droits de la personne**

Citation: 2025 CHRT 62
Date: June 18, 2025
File Nos.: HR-DP-3017-24

Between:

Micheal Ongena

Complainants

- and -

Transport Canada

Respondent

Ruling

Member: Jo-Anne Pickel

I. OVERVIEW

[1] This is a case management ruling that I consider necessary to ensure that this case proceeds in an efficient and expeditious manner, as required by the *Canadian Human Rights Act*, R.S.C., 1985, c. H-6 (CHRA) and the *Canadian Human Rights Tribunal Rules of Procedure, 2021*, SOR/2021-137 (the “Rules of Procedure”).

II. Chronology

[2] In January 2022, Micheal Ongena, the Complainant, filed a complaint with the Canadian Human Rights Commission (the “Commission”). The Complainant is a pilot who, in broad terms, alleges that Transport Canada, the Respondent, discriminated against him because of his disability when it revoked his aviation medical certificate in March 2020.

[3] The Commission referred the complaint to the Tribunal in April 2024.

[4] The Tribunal set deadlines in January 2025 for the parties to file their Statements of Particulars (SOPs).

[5] In December 2024, the parties jointly requested a two-month extension to file their SOPs. The Tribunal Chairperson denied this two-month extension request. In a ruling e-mailed in December 2024, the Tribunal Chairperson granted the parties an extension of only three weeks to file their SOPs. The Complainant complied with this deadline. Meanwhile, the Respondent’s counsel, Tengteng Gai, failed to comply with the February 14, 2025, deadline established by the Chairperson for filing the Respondent’s SOP. Mr. Gai also failed to request an extension before the deadline had elapsed.

[6] By correspondence dated February 20, 2025, I directed the Respondent to file its SOP no later than February 28, 2025. Mr. Gai responded by asking that I reconsider my decision, which I refused to do. However, I did agree to grant the Respondent until March 7, 2025, to file its SOP. On March 7, 2025, the Respondent filed only a partial SOP which did not contain either a list of arguably relevant documents or a witness list as required by Rule 20 of the Rules of Procedure.

[7] During a case management conference call (CMCC) in March 2025, I expressed my concern with the Respondent's failure to make its full disclosure in a timely manner. Mr. Gai stated that he could not complete the disclosure required under the Rules of Procedure until June 13, 2025. I directed the Respondent to file a preliminary list of arguably relevant documents and a preliminary list of witnesses with accompanying will-say statements by April 7, 2025. I also directed the Respondent to disclose as many arguably relevant documents as possible to the Complainant by that date.

[8] I directed Mr. Gai to provide the Tribunal and the Complainant the following by June 13, 2025:

- a complete list of the documents that are in the Respondent's possession that relate to a fact or issue that is raised in the complaint or to an order sought by any of the parties; and
- a complete list of witnesses, other than the expert witness, whom it intends to call, along with a detailed summary of the witness's anticipated testimony.

[9] The Tribunal confirmed these directions with the parties in the CMCC summary that was sent to them shortly after the CMCC.

[10] On June 13, 2025, Mr. Gai filed a list of only ten additional documents. It is unclear to me why it would have taken the Respondent's counsel two and a half additional months to file a list of ten documents which consisted of medical reports and test results in the Respondent's possession. The Respondent's counsel also filed a witness list with sparse summaries of anticipated evidence which fall far short of the "detailed" summary of witnesses' anticipated testimony that I directed the Respondent to provide during the CMCC.

III. Ruling – Deadlines for next steps

[11] This Tribunal has a mandate to ensure that proceedings are conducted in a fair, informal and expeditious way (s. 48.9 of the CHRA). However, achieving this goal also greatly depends on the parties' willingness to move forward efficiently (see *Richards v.*

Correctional Service Canada, 2023 CHRT 51 at para 27). The Tribunal's mandate to provide timely access to justice ends up being severely compromised if cases are not moved forward in the most efficient and expeditious manner possible.

[12] By email dated June 16, 2025, I confirmed the following deadlines for the next steps in this case which are consistent with the deadlines agreed to in the CMCC I held with the parties:

- **June 30, 2025** – a **DETAILED** summary of the anticipated testimony of each of the Respondent's witnesses, other than its expert witness. It is not sufficient to simply state that a witness will "testify generally about the application of discretion for aviation medical certificates and Canada's international obligations" or "will provide testimony regarding the reviewed the AMRB conducted on the Complainant's file". The Respondent must provide detailed will-say statements for each of its witnesses (except for its expert witness).
- **June 30, 2025** – the Complainant's expert report.
- **September 30, 2025** – Mr. Gai insisted that the Respondent required 90 days after the filing of the Complainant's expert report to file its expert report; therefore, the Respondent's expert report is due on September 30, 2025.
- **December 8–12, 2025** – the hearing of the case was confirmed for this period, as this was the only block of time in the fall/winter when the parties were mutually available.

[13] The parties should note that the hearing may not take the full week. I will make further directions regarding the length of the hearing once the parties have complied with the above deadlines.

[14] These deadlines will only be altered in the case of exceptional circumstances. Should either party request any change whatsoever to any of the deadlines, they will have to file a detailed request explaining why they believe that exceptional circumstances exist which support altering the deadlines. Any request will be treated under very tight timelines (24 hours). In my view, these deadlines are necessary to ensure that this case proceeds as efficiently and expeditiously as possible, as required by the CHRA and the Rules of Procedure.

[15] Finally, the parties are directed to raise any preliminary issues as soon as they become aware of them to not delay this case further.

[16] I will follow up with the parties in due course regarding the possibility of scheduling a mediation-adjudication in October or November 2025.

Signed by

Jo-Anne Pickel
Tribunal Member

Ottawa, Ontario
June 18, 2025

Canadian Human Rights Tribunal

Parties of Record

File Nos.: HR-DP-3017-24

Style of Cause: Michael Ongena v. Transport Canada

Ruling of the Tribunal Dated: June 18, 2025

Daniel Hassell, for the Complainant

Tengteng Gai and Karen Watt, for the Respondent