

**Canadian Human
Rights Tribunal**



**Tribunal canadien
des droits de la personne**

Citation: 2025 CHRT 73
Date: July 29, 2025
File No.: HR-DP-3083-25

Between:

Atefeh Shirafkan

Complainant

- and -

Canadian Human Rights Commission

Commission

- and –

Immigration, Refugees and Citizenship Canada

Respondent

Ruling

Member: Paul Singh

I. NATURE OF MOTION

[1] The Complainant, Atefeh Shirafkan, alleges she was denied employment by the Respondent, Immigration, Refugees and Citizenship Canada (IRCC), due to discrimination based on age and national or ethnic origin. IRCC denies discriminating.

[2] IRCC says the Complainant's Statement of Particulars (SOP) exceeds the scope of the complaint referred to the Tribunal by the Canadian Human Rights Commission (the "Commission"). It has filed a motion for an order striking the SOP in its entirety and requiring the Complainant to file an amended SOP limited to allegations that age and national or ethnic origin were factors in IRCC's decision not to hire her for a position. IRCC also seeks an order directing the Complainant to provide, in her amended SOP, the name of each intended witness, a summary of their anticipated evidence and a list of documents in her possession she intends to rely upon. The Complainant opposes the motion.

II. RULING

[3] IRCC's motion is granted.

III. CONTEXT

The Complaints

[4] The Complainant was employed by IRCC as a casual employee commencing August 2019. IRCC terminated her employment in November 2019.

[5] In March 2021, the Complainant filed a human rights complaint with the Commission against IRCC (the "IRCC Complaint") in which she alleges she was denied a position because of discrimination based on age and national or ethnic origin. In that complaint, she also alleges that her supervisor and manager at IRCC harassed her because of her age and national or ethnic origin.

[6] In March 2021, the Complainant also filed two additional complaints with the Commission against her supervisor and manager (the "Harassment Complaints") in which she

alleges discriminatory harassment by them on the same facts as those set out in the IRCC Complaint.

[7] The Commission referred the IRCC Complaint to the Tribunal for an inquiry in January 2025. In its Record of Decision for that complaint, the Commission stated that the investigating officer did not address the harassment allegations against Ms. Shirafkan's supervisor and manager. The Commission explained that this was because sufficient grounds already existed to refer the IRCC Complaint on the basis that the Complainant was allegedly denied employment by IRCC due to discrimination based on age and national or ethnic origin.

[8] In January 2025, the Commission also dismissed the Complainant's two Harassment Complaints against her supervisor and manager. In the Records of Decision for those complaints, the Commission stated that the investigating officer determined that "there is no reasonable basis in the evidence to conclude that the Respondent's [i.e., Ms. Shirafkan's supervisor and manager] conduct amounted to harassment. The officer reviewed the evidence after a thorough investigation and came to the correct conclusion".

[9] In February 2025, the Complainant filed an application with the Federal Court for judicial review of the Commission's decision to dismiss the Harassment Complaints. In her application, the Complainant alleges malfeasance by the Commission, including that the Commission "acted in bad faith by rendering a decision based on false evidence, knowingly relying on IRCC's false statements in a perverse and capricious manner, with willful disregard for the material before them". The judicial review process is ongoing.

Statement of Particulars

[10] The Complainant filed a lengthy SOP for the IRCC Complaint in March 2025. The SOP spans over 20 headings and alleges broad misconduct against IRCC, which includes the following:

- i. *Harassment* – The SOP includes allegations that the Complainant was harassed by her supervisor and manager and subjected to retaliation when she accused them of harassment.

- ii. *Failure to accommodate* – The Complainant alleges that IRCC failed to accommodate her anxiety disorder despite knowing about it. This allegedly led to a worsening of her mental health.
- iii. *Systemic discrimination* – The Complainant says IRCC has a “deeply ingrained culture where unfair treatment is normalized”. The Complainant alleges broad systemic discrimination and wilful misconduct by senior IRCC officials. The allegations include perjury and document falsification. She says the Deputy Minister has failed to act to address malfeasance within IRCC which demonstrates that “leadership not only ignores discrimination but actively enables it, prioritizing their reputation over the public interest”.
- iv. *Legislative violations* – The Complainant alleges that IRCC violated numerous statutes through their misconduct and institutional non-compliance, including the *Canadian Charter of Rights and Freedoms*, *Public Service Employment Act*, *Employment Equity Act*, *Public Servants Disclosure Protection Act*, *Financial Administration Act*, *Canada Labour Code*, *Federal Accountability Act*, and *Conflict of Interest Act*.

IV. ANALYSIS

Motion to strike

[11] Section 49 of the *Canadian Human Rights Act*, R.S.C., 1985, c. H-6 (CHRA) provides the Tribunal with jurisdiction to hear complaints referred by the Commission for an inquiry.

[12] The Tribunal’s jurisdiction is limited to the scope of the complaint as referred by the Commission. The SOP cannot introduce a substantially new complaint, as this would bypass the Commission’s referral process required by the CHRA. Where an SOP falls outside the

scope of the complaint referred by the Commission, the Tribunal lacks jurisdiction to include it in its inquiry: *Garnier v. Correctional Service of Canada*, 2023 CHRT 32 at paras 9–10.

[13] While the Tribunal has discretion to allow an SOP to clarify, refine or elaborate on a referred complaint, the SOP must not include new issues or allegations that were not referred by the Commission or that have no logical connection to the original complaint. Although complaints before the Tribunal can evolve over time, the SOP must reasonably respect the factual foundation of the allegations raised in the original complaint: *Levasseur v. Canada Post Corporation*, 2021 CHRT 32 at paras 15–16; *Thomas v. Correctional Service Canada*, 2024 CHRT 139 at para 14 [*Thomas*].

[14] When submissions appear to amend or expand the original complaint, the Tribunal must determine whether there is a sufficient nexus between the allegations in the SOP and the original complaint. If such a nexus exists, the proposed adjustment to the scope is allowed; otherwise, the new allegations must be treated as a new and separate complaint: *Thomas* at paras 15–16.

[15] On considering this legal framework, I am satisfied that most of the Complainant's SOP falls outside the scope of the complaint referred by the Commission. The scope of the referred complaint is limited and well-defined, namely whether the Complainant's age and national or ethnic origin were factors in IRCC's decision not to appoint her to a term position after she was employed as a casual employee for a few months.

[16] However, the Complainant's SOP contains broad allegations with no reasonable connection to the limited scope of the original complaint. For example, the allegations relating to IRCC's alleged failure to accommodate the Complainant's anxiety issues are entirely unrelated to the original complaint. Similarly, the Complainant's broad allegations of systemic discrimination by IRCC, including serious malfeasance by senior officials unaffiliated with the Complainant's brief employment with IRCC, lack a reasonable connection to her original complaint.

[17] In addition, the allegations in the SOP that IRCC breached the provisions of various statutes other than the CHRA generally fall outside the Tribunal's jurisdiction as they involve areas governed by legislation beyond the scope of the CHRA.

[18] Finally, throughout the SOP, the Complainant includes allegations of harassment and related matters against her supervisor and manager. These allegations were dismissed by the Commission. The Tribunal does not have jurisdiction to inquire into matters dismissed by the Commission in its screening process. If the Complainant disagrees with a decision of the Commission or believes the process was tainted, the proper course is judicial review, which the Complainant is currently pursuing: *Mohammed Tibilla v. Canada Revenue Agency*, 2025 CHRT 24 at para 31; *Canada (Human Rights Commission) v. Warman*, 2012 FC 1162 at para 56 (affirmed 2014 FCA 18).

[19] In her response submission to IRCC's motion to strike, the Complainant appears to acknowledge that the allegations in her SOP exceed the scope of the complaint referred by the Commission. The Complainant, however, argues she should nevertheless be permitted to include the allegations for contextual purposes. Specifically, the Complainant says the following:

The Respondent falsely asserts that the Complainant is attempting to litigate harassment, systemic discrimination, and failure to accommodate – issues outside this Tribunal's jurisdiction and currently before the Federal Court and the Supreme Court of Canada. These references in the SOP are clearly contextual and support understanding of the referred allegations – discrimination in hiring, training, and promotion based on age, family status/nepotism, and national or ethnic origin.

...

These references are included solely to provide relevant background and context. The Complainant acknowledges that the Canadian Human Rights Tribunal has jurisdiction only over the referred allegations of discrimination in hiring, promotion, and training based on age, national or ethnic origin, and family status. The Tribunal is not being asked to adjudicate the contextual issues, which are before other judicial bodies.

[20] I am not persuaded that the Complainant's superfluous allegations should be included in the SOP for contextual purposes. While the Tribunal permits parties to include contextual information in their SOPs, the information should be connected to and reasonably inform the Tribunal of the allegations referred by the Commission. As noted above, the allegations of harassment, systemic discrimination and failure to accommodate in the Complainant's SOP are separate and apart from the narrow and well-defined issues referred by the Commission for inquiry.

[21] In addition, proceedings before the Tribunal must be conducted as informally and expeditiously as the requirements of natural justice and the rules of procedure allow: s. 48.9(1) of the CHRA. I decline to allow the inclusion of the superfluous allegations for contextual purposes because it is not proportionate in the circumstances and will hinder the expeditious resolution of the complaint. It will require IRCC to expend unnecessary time and resources to address the allegations in their response SOP and at the hearing. It will also unnecessarily lengthen the hearing process and confound the narrow, well-defined issues referred by the Commission.

Witness and disclosure requirements

[22] IRCC also seeks an order directing the Complainant to provide, in an amended SOP, the name of each intended witness, a summary of their anticipated evidence and a list of documents in her possession she intends to rely upon.

[23] The Complainant opposes this order. She argues it is premature for her to provide disclosure at this early stage of the proceedings because she has been denied access to various documents by IRCC. As for witnesses, the Complainant says IRCC has greater knowledge of the identity of staff who were present at the material time, so she should not be compelled to provide a witness list at this early stage.

[24] I do not accept the Complainant's position. Each party is required to file an SOP that sets out the material facts that the party seeks to prove, their position on the legal issues, a list of all arguably relevant documents, and a list of witnesses and a summary of their anticipated testimony: *Jorge v. Canada Post*, 2021 CHRT 25 at para 77; Rule 18 of the *Canadian Human Rights Tribunal Rules of Procedure, 2021*, SOR/2021-137 (the "Rules").

[25] The Complainant cannot ignore her obligations under Rule 18 simply because she perceives that IRCC has access to more information or has prevented her from accessing certain documents. The Complainant is required to make best efforts to comply with the Rules and to provide witness and document disclosure based on the information currently available to her. If she obtains new, relevant documents as the case progresses, she must provide ongoing disclosure to IRCC as it becomes available: Rule 24(1).

[26] Similarly, the Complainant may, with permission of the Tribunal, amend her witness list to add or remove witnesses as the case progresses if new information or investigation warrants it. Additionally, once IRCC provides their responding SOP and disclosure, the Complainant is at liberty to file a motion for a disclosure order if she believes disclosure is incomplete. The Complainant therefore has multiple options to address outstanding issues relating to witnesses and disclosure as her case proceeds to a hearing. Non-compliance with Rule 18, however, is not one of those options.

V. CONCLUSION AND ORDER

[27] IRCC's motion is granted.

[28] The Tribunal orders as follows:

- i. The Complainant's SOP is struck in its entirety. Within 30 days, the Complainant is directed to file an amended SOP which is limited to allegations that age and national or ethnic origin were factors in IRCC's decision not to hire her for a position.
- ii. The Complainant is also directed to address each SOP requirement set out at Rules 18(1)(a) to (f) of the Rules to allow IRCC to meaningfully respond to the allegations against them. This includes providing the name of each intended witness, a summary of their anticipated evidence, and a list of documents in the Complainant's possession she intends to rely upon.

Signed by

Paul Singh
Tribunal Member

Ottawa, Ontario
July 29, 2025

Canadian Human Rights Tribunal

Parties of Record

Tribunal File: HR-DP-3083-25

Style of Cause: Atefeh Shirafkan v. Immigration, Refugees and Citizenship Canada

Ruling of the Tribunal dated: July 29, 2025

Motion dealt with in writing without appearance of parties

Written representations by:

Atefeh Shirafkan, self-represented

Jenelle Mack and Benjamin Bertram, for the Respondent