

Canadian Human
Rights Tribunal



Tribunal canadien
des droits de la personne

Citation: 2025 CHRT 103
Date: October 22, 2025
File No.: HR-DP-3089-25

Between:

Amit Arora

Complainant

- and -

Canadian Human Rights Commission

Commission

- and -

Canadian National Railway Company

Respondent

Ruling

Member: Gary Stein

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I. OVERVIEW AND DECISION

- [1] This ruling dismisses the Complainant's motion for the disclosure of documents.
- [2] The Complainant, Amit Arora, is a former employee of the Canadian National Railway Company, the Respondent (CN). Mr. Arora's complaint to the Canadian Human Rights Commission (the "Commission") alleged that CN discriminated against him based on events occurring between April 12, 2016, and August 21, 2018. CN denies the allegations.
- [3] Mr. Arora's complaint to the Commission (the "Original Complaint") includes several allegations of discrimination. However, the Commission only referred one allegation involving an event that occurred on March 29, 2018, (the "Pole Removal Incident") to the Tribunal for inquiry.
- [4] The parties have filed their Statements of Particulars (SOPs), including their lists of non-privileged documents. Mr. Arora asks the Tribunal to order CN to produce more documents.
- [5] I dismiss Mr. Arora's request for further disclosure. The request is for documents that relate to allegations and events in Mr. Arora's Original Complaint that the Commission did not refer to the Tribunal for inquiry. The request is also disproportionate to the issue that the Tribunal will consider in this inquiry.

II. ISSUE

- [6] I must decide whether to allow Mr. Arora's request for the disclosure of documents.

III. ANALYSIS

A. Legal framework

(i) The Tribunal's jurisdiction

[7] The Commission's referral of a complaint to the Tribunal creates the Tribunal's jurisdiction to institute an inquiry into the complaint (*Sidhu & Kopeck v. International Longshore and Warehouse Union Local 500*, 2023 CHRT 4 at para 17; *Karas v. Canadian Blood Services and Health Canada*, 2021 CHRT 2 at para 14).

[8] The Tribunal can amend a complaint to determine the real questions in controversy between the parties, if the amendments do not result in prejudice to the other party (*Canada (Attorney General) v. Parent*, 2006 FC 1313 at paras 30, 40). Requests for amendments must consider the complaint to the Commission, the Commission's decisions with respect to the complaint, and the request for inquiry that the Commission has made to the Tribunal (*Mohamed v. Royal Bank of Canada*, 2023 CHRT 20 at para 10).

[9] When the Commission requests that the Tribunal institute an inquiry into a complaint, the Tribunal conducts its own *de novo* inquiry, which means a full new hearing. The Tribunal is the master of its own procedure and can determine how best to deal with the issues that the Commission has referred for inquiry (*Murray v. Immigration and Refugee Board*, 2013 CHRT 2 at para 37 [Murray] citing *Prasad v. Canada (Minister of Employment and Immigration)*, 1989 CanLII 131 (SCC), [1989] 1 SCR 560). The Tribunal decides all questions of law and fact, and it may accept any evidence that the Tribunal member sees fit (sections 50(2) and 50(3)(c) of the *Canadian Human Rights Act*, R.S.C., 1985, c H-6 (the "Act").

[10] The Tribunal cannot review the decisions that the Commission makes in its screening process. That is the role of the Federal Court on judicial review (*Miller v. International Longshoremen's Association*, ILA Local 269, 2022 CHRT 39 at para 39, citing *Canada (Human Rights Commission) v. Warman*, 2012 FC 1162 at para 56).

(ii) The disclosure of documents

[11] In a Tribunal inquiry, the parties have a full and ample opportunity to present their case (section 50(1) of the Act). This includes the disclosure of arguably relevant information that an opposing party possesses (*Kayreen Brickner v. Royal Canadian Mounted Police*, 2017 CHRT 28 at para 4 [*Brickner*]).

[12] When a dispute arises about whether documents should be disclosed, the Tribunal decides, on a case-by-case basis, whether the disputed documents are arguably relevant (*Mortimer v. Air Canada*, 2018 CHRT 30 at para 42). This is not a high threshold for a party to meet. It requires a rational connection between a document and the facts, issues, or forms of relief that the parties have identified (*Brickner* at paras 5–6).

[13] Despite this low threshold for establishing the arguable relevance of a document, the Tribunal can limit or deny a request for disclosure:

- a. The Tribunal may deny a motion for the disclosure of arguably relevant documents, so long as the requirements of natural justice and the *Canadian Human Rights Tribunal Rules of Procedure*, 2021, SOR/2021-137 (the “Rules of Procedure”) are respected, to ensure the informal and expeditious conduct of the inquiry (section 48.9(1) of the Act; *Brickner* at para 7).
- b. A request for disclosure must not be speculative or amount to a “fishing expedition”. The documents should be identified with reasonable particularity (*Brickner* at para 7).
- c. The Tribunal may also deny a request for disclosure where the probative value of documents would not outweigh the prejudicial effect of the disclosure request on the proceedings. For example, a request may be denied where a party would be required to conduct an onerous and far-reaching search for documents. Disclosure may also be denied where ordering disclosure would add substantial delay to the efficiency of the inquiry, or where the documents are merely related to a side issue rather than the main issues in dispute (*Brickner* at para 8).

(iii) The Tribunal may consider contextual information

[14] A Tribunal inquiry that focuses on one portion of a complaint, without context, could lead to inaccurate findings (*Starblanket v. Correctional Service of Canada*, 2014 CHRT 29 at para 24). The Tribunal can consider systemic evidence as context for an individual complaint if the systemic issues illuminate the specific dispute between the parties (*Richards v. Correctional Service Canada*, 2020 CHRT 27 at para 110, citing *Moore v. British Columbia (Education)*, 2012 SCC 61). The Tribunal may also consider information for background or context, if the substance of the complaint to the Commission is respected (*Jorge v. Canada Post Corporation*, 2021 CHRT 25 at paras 240–242 and 248–251; *Casler v. Canadian National Railway*, 2017 CHRT 6 at para 9).

(iv) Proportionality

[15] The Tribunal and the parties must be guided by the principle of proportionality. The principle requires all participants in the justice system to avoid making proceedings unnecessarily lengthy, complex, or costly (*Temate v. Public Health Agency of Canada*, 2022 CHRT 31 at paras 8–15 [*Temate*]; *Thomas v. Correctional Service Canada*, 2024 CHRT 139 at para 19). The proportionality of the Tribunal’s proceedings is also implicit in the Act’s requirement that the Tribunal hear complaints as informally and expeditiously as the requirements of natural justice and the Rules of Procedure allow (*Temate* at para 11).

[16] The Tribunal considers the principle of proportionality when it decides on a motion and may impose limits based on the circumstances of each case (*Temate* at paras 13–15). A request for disclosure must be proportionate to the nature and complexity of the proceedings (*Chow v. The Toronto-Dominion Bank*, 2025 CHRT 64 at para 20; *Canadian Association of Elizabeth Fry Societies v. Correctional Services of Canada*, 2023 CHRT 39 at para 37).

B. The parties’ positions

[17] I have considered the parties’ initial submissions on this motion and the revised submissions that I directed the parties to provide.

[18] Mr. Arora's Original Complaint refers to allegations of discrimination that occurred between April 12, 2016, and August 21, 2018, including allegations that:

- a. CN employees made derogatory comments about Mr. Arora;
- b. CN selected a Caucasian technician for a supervisor's position instead of Mr. Arora despite the technician not having the educational qualifications;
- c. CN gave training, work privileges, better work assignments, vehicles, and other advantages to Caucasian employees, and it applied its policies and procedures for the benefit of Caucasian employees;
- d. CN subjected Mr. Arora to higher work standards than Caucasian employees;
- e. CN assigned shop clean-up tasks to Mr. Arora but not to other employees; and
- f. CN did not conduct investigations into the conduct of Caucasian technicians but had previously done so for Mr. Arora.

[19] The Original Complaint also refers to alleged occurrences on March 1, 8, 9 and 29, 2018. The allegation about the Pole Removal Incident on March 29, 2018, states: "I needed a hand to remove a pole (with a mounted camera on one end) from the roof of the truck and I was humiliated for my abilities to do my job. Complaint to senior management about Supervisor inconsiderate behaviour".

[20] Mr. Arora argues that the documents he is requesting are related to the Pole Removal Incident. His original request for disclosure has 21 categories of documents, and each category has broad descriptions of the documents. For example, category 11 asks for documents about a specific CN employee's employment and qualifications, including the employee's "full job history (2010 – 2018)", "promotions, training qualifications, worksite transfers", and "documents used to justify supervisory appointment". Category 21 asks for "Internal Communications Regarding 2016 Recording Requests and Related Incidents". This category is divided into three subcategories with their own descriptions.

[21] Mr. Arora asks me to order the disclosure because, in his view, the documents are relevant to several issues. These include CN's credibility and motive for assigning him to do

the work related to the Pole Removal Incident, as well as allegations of systemic discrimination and retaliation. He also refers to a comparison of how CN treated him versus white employees, including patterns of enforcing rules and policies. The issues also include that CN has not investigated or resolved aggression and verbal abuse in the workplace and that CN supervisory personnel are hostile to him based on his culture. Mr. Arora also alleges that CN suppressed audio recordings and conducted “retaliatory targeting”.

[22] CN asks me to dismiss the motion. It argues that Mr. Arora’s request goes beyond the allegations that the Commission referred to the Tribunal, that it amounts to a “fishing expedition” for documents, and that granting the request would unduly delay the proceeding and cause significant prejudice to CN.

[23] Mr. Arora’s reply submissions indicate that he has narrowed the disclosure request to five categories of documents. I address both the original request and the narrower request for disclosure.

C. This inquiry is only about the Pole Removal Incident

[24] On June 15, 2023, the Commission made its first of two decisions about Mr. Arora’s Original Complaint. It decided “not to deal with any allegations other than the allegations arising on March 29, 2018, because all of the other allegations have already been dealt with or could have been dealt with by another decision-maker”. The Commission referred the allegation about the Pole Removal Incident to a Commission conciliator, but it did not resolve the complaint.

[25] On February 19, 2025, the Commission made its second decision, which was to refer the Pole Removal Incident to the Tribunal for inquiry.

[26] On February 21, 2025, the Commission wrote to the Tribunal and requested that the Tribunal’s Chairperson institute an inquiry into “only the pole removal incident”.

[27] Based on the Commission’s decisions and its letter to the Tribunal, the Tribunal has the jurisdiction to hold an inquiry only into the allegation about the Pole Removal Incident.

D. The Commission's comments on the non-referred allegations do not impact the Tribunal's inquiry

[28] The Commission's February 19, 2025, decision to refer the Pole Removal Incident to the Tribunal also included the following:

- a. The allegations that the Commission did **not** refer "are part of the Complainant's lived experience and should be considered when analysing why the Complainant believes that the remaining alleged act of discrimination, i.e. the pole removal incident, can be linked to a prohibited ground";
- b. The allegations that the Commission did **not** refer "remain relevant to provide context for the pole removal incident";
- c. "More evidence about the context of the relationship between the Complainant and his supervisor would be necessary to assess the issue of racial discrimination"; and
- d. "Both parties will be able to bring this evidence at Tribunal stage".

[29] These statements might explain why the Commission decided to refer the Pole Removal Incident to the Tribunal, but they do not require the Tribunal to consider evidence about allegations that the Commission did not refer. In a Tribunal inquiry, the Tribunal decides all questions of law, fact, and procedure, including what evidence to receive and accept, or not to accept (sections 50(1), (2) and (3) of the Act; rules 3(2), 5, 7 and 8 of the Rules of Procedure). The Tribunal may consider these issues for background or context if it finds them to be necessary, but the Commission cannot direct the Tribunal's inquiry or restrict the Tribunal's discretion under the Act.

E. The request for documents is disproportionate to this proceeding

[30] CN has no liability under the Act for allegations that the Commission excluded from its referral. Any documents related to the excluded allegations might, at most, be arguably relevant as context for the Pole Removal Incident.

[31] I acknowledge contextual information for an alleged discriminatory practice can be important. I also acknowledge the low threshold of arguable relevance for the disclosure of a document and that the disclosure of a document does not mean that the Tribunal will admit the document as evidence in a hearing. However, contextual information must respect the boundaries of the complaint that the Commission referred to the Tribunal for inquiry. The value of contextual information must also be weighed against the requirement for proportionality.

[32] In this complaint, the Commission excluded all allegations from its referral to the Tribunal except for the allegations about the March 29, 2018, Pole Removal Incident. For example, the Commission excluded allegations about systemic discrimination, such as whether Caucasian employees obtained advantages in the workplace that CN did not provide to Mr. Arora.

[33] The Commission also excluded the allegation in the Original Complaint that “Caucasian technicians are not subjected to similar formal investigation or demerits for safety rule violation”, but category 20 of Mr. Arora’s request includes “Records Regarding 74 Speeding Infractions (Comparator Evidence)”.

[34] The Commission also excluded allegations that CN employees made derogatory comments about Mr. Arora, but categories 12 and 15 of Mr. Arora’s request include records about these comments.

[35] Because the Commission referred one specific allegation and excluded all other allegations, the documents requested are not arguably relevant as context for the precisely defined single incident. Taking this approach respects the Commission’s clearly limited referral decision. Any other approach would also infringe on the Federal Court’s exclusive authority to review the Commission’s decision.

[36] Mr. Arora’s request is also broad and overreaching. It does not identify documents with reasonable particularity, and it is disproportionate to the allegation that the Commission referred. In this sense, to use the phrase from *Brickner*, the request is a “fishing expedition” for documents, for the following reasons:

- a. I agree with CN's submission that the requested documents include information about the personal lives and financial information of other CN employees. This information is not arguably relevant to the Pole Removal Incident or as context for the event;
- b. CN submits that the records include privileged information. I accept that it is possible that the requested documents include privileged information due to the wide range of the disclosure request and because it includes a request to disclose information about a "legal strategy";
- c. Some of the requested documents predate the Pole Removal Incident by many years. The Tribunal's inquiry involves allegations about events on March 29, 2018, but the request for disclosure includes documents that date back to 2008; and
- d. Ordering CN to disclose these documents would result in a significant risk of distracting the inquiry from the main issue. I agree with CN that it would cause delays and significant costs for CN. It is likely to lengthen the hearing by including testimony from witnesses who are called only to support or refute the contextual allegations. It is also likely to lead to new disputes between the parties during the pre-hearing case management process.

F. I do not agree with the arguments in Mr. Arora's submissions

[37] Mr. Arora filed an unsigned affidavit to support his motion. He asks if the Tribunal requires that it be signed. It is not necessary. I have considered the information in the unsigned statement as part of Mr. Arora's submissions.

[38] Mr. Arora describes his efforts to obtain the documents that he is requesting in this motion and why the documents are necessary. He argues that the Commission unilaterally narrowed the scope of his complaint and did not give him the opportunity to submit documents, including the documents that he is requesting. He states that the Commission's referral decision "may have been influenced" by the disclosure of these documents and that the Tribunal should not be bound by the Commission's decision that was "rendered without access to the full evidentiary record".

[39] I do not accept these arguments. The authority to review the Commission's decision about its referral to the Tribunal lies exclusively with the Federal Court. Mr. Arora has applied to the Federal Court for judicial review of the Commission's referral decision in this case. Unless the Court orders otherwise, the Tribunal's proceedings will continue based on the Commission's decision to refer only the Pole Removal Incident to the Tribunal for inquiry.

[40] Mr. Arora's submissions also include details about the Pole Removal Incident and connects them to allegations about a work discipline event earlier in March 2018 and to an alleged recording of a meeting that he attended on March 9, 2018. He also refers to events that allegedly occurred during an arbitration. Mr. Arora links the recording of the meeting to other workplace incidents and to the Commission's alleged failure to fully investigate the Original Complaint. He argues that CN "imposed a career-ending penalty" on him based on a threat that he allegedly made during the meeting, and that, in this circumstance, it is improper for CN not to disclose the recording.

[41] However, as explained, the Federal Court has the exclusive authority to review the Commission's decisions, and the Tribunal has the authority, under the Act, to decide all questions of law, fact, and procedure on the issues that the Commission has referred for inquiry. In my view, the request for a recording of an event on March 9, 2018, is not appropriate based on the Commission's decision to refer "only the pole removal incident" for the Tribunal's inquiry, and its decision to exclude an allegation in the Original Complaint involving an incident on March 9, 2018.

[42] Mr. Arora submits that the three alleged events that took place in March 2018—on March 5, 9 and the Pole Removal Incident on March 29—are interconnected and, therefore, that the disclosure of the documents related to the three allegations is essential to test CN's narrative of the three incidents. He also submits that the requested documents are relevant to his allegations of systemic discrimination and to how CN treated him compared to Caucasian employees. However, I decline to order the disclosure of documents about allegations that the Tribunal has no jurisdiction to consider.

[43] Mr. Arora argues that the integrity of the Tribunal's proceedings would be undermined if the Tribunal assessed CN's credibility without having access to the recording and the other

requested documents. In Mr. Arora's view, these documents are also relevant to CN's motive for giving him the pole removal assignment. However, any issues about CN's credibility and intention by way of these documents would necessarily be based on inferences about side issues, involving allegations that the Commission did not refer. In the hearing of this case, Mr. Arora will have the opportunity to challenge the credibility of CN in relation to the Pole Removal Incident. However, it would not be appropriate to make credibility findings by considering documents about incidents that are beyond the scope of this inquiry.

[44] Mr. Arora submits that the Tribunal should draw adverse inferences against CN for not producing the documents that he requests. I do not agree. First, I am not requiring CN to produce the requested documents. Second, a decision to draw an adverse inference would only occur after the admission of documents into evidence in a hearing is completed.

[45] Mr. Arora's reply submissions indicate that he has narrowed the disclosure request to "five targeted categories", but his submissions still refer to allegations that the Commission did not refer. For example, the reply submissions refer to the request for work scheduling records and pay stubs for two named CN employees and to Employment Insurance documentation for one of these employees. Mr. Arora argues that they are necessary to assess whether CN applied its employment policies in a discriminatory way. The submissions also continue to request records of allegedly derogatory remarks that other employees made about Mr. Arora. However, these requests involve allegations that the Commission excluded from its referral to the Tribunal.

[46] Mr. Arora refers to case law to support his arguments. However, the cited decisions do not address the balancing of competing interests that the Tribunal conducts on a motion for document disclosure or the factors that the Tribunal must consider in assessing the proportionality of such requests.

[47] Mr. Arora relies on the Supreme Court of Canada's decision in *Baker v. Canada (Minister of Citizenship and Immigration)*, 1999 CanLII 699 (SCC) [Baker]. The Court considered the factors involved in applying the common law duty of procedural fairness. It found that the duty of fairness is flexible and variable, that it depends on the particular statute

and rights that are affected, and that it ensures that “administrative decisions are made using a fair and open procedure, appropriate to the decision being made and its statutory, institutional, and social context, with an opportunity for those affected by the decision to put forward their views and evidence fully and have them considered by the decision-maker” (*Baker* at para 22). The Court identified the factors for determining the requirements of the duty of procedural fairness in a given set of circumstances (*Baker* at paras 23–28).

[48] In relation to this Tribunal’s proceedings, the Tribunal decides all questions of law, fact, and procedure (sections 48.9(1), 50(2) and 50(3) of the Act; *Murray* at para 37). The Act also requires that proceedings be conducted as informally and expeditiously as the requirements of natural justice and the Rules of Procedure allow.

[49] Mr. Arora and CN have provided submissions on this motion. I have considered them, and I have applied the law to Mr. Arora’s request. This approach is consistent with the fairness requirements in *Baker*.

G. CN has disclosed its policies related to the Pole Removal Incident

[50] Schedule “F” to CN’s submissions discloses an excerpt from CN’s Code of Business Conduct. This document is arguably relevant to the allegation about the Pole Removal Incident. No disclosure order is required because it has been disclosed.

H. Conclusion

[51] The documents that Mr. Arora asks to be disclosed primarily relate to allegations in the Original Complaint that the Commission did not refer to the Tribunal. Ordering their disclosure, even for the limited purpose of providing context or background, would not respect the substance of the complaint that the Commission referred for inquiry. The request for disclosure is disproportionate to this proceeding, and the prejudicial effect of the request outweighs the probative value that the requested documents may provide. Mr. Arora’s request is inconsistent with the Act’s requirement to conduct this proceeding as informally, expeditiously, and fairly as possible.

[52] To be clear, this ruling is only about the request for disclosure. It does not address the scope of the parties' SOPs or the admission of evidence in a hearing. The parties have not put those issues before me. I will raise the issue of the scope of the parties' SOPs in a case management conference call to be scheduled shortly.

IV. ORDER

[53] The motion for the disclosure of documents is dismissed.

Signed by

Gary Stein
Tribunal Member

Ottawa, Ontario
October 22, 2025

Canadian Human Rights Tribunal

Parties of Record

File No.: HR-DP-3089-25

Style of Cause: Amit Arora v. Canadian National Railway Company

Ruling of the Tribunal Dated: October 22, 2025

Motion dealt with in writing without appearance of parties

Written representations by:

Amit Arora, Self-represented Complainant

Stephanie Lewis, for the Respondent