

Canadian Human
Rights Tribunal



Tribunal canadien
des droits de la personne

Citation: 2025 CHRT 116
Date: December 29, 2025
File No.: HR-DP-2894-22

Between:

Joanna Benner

Complainant

- and -

Canadian Human Rights Commission

Commission

- and -

Royal Canadian Mounted Police

Respondent

Ruling

Member: Anthony Morgan

OVERVIEW

[1] The Complainant, Joanna Benner, alleges that she experienced discriminatory treatment by the Respondent, the Royal Canadian Mounted Police (“RCMP”), and that this treatment resulted in her being involuntarily medically discharged from the RCMP, ending her employment with the Respondent organization. She alleges that her disability was a factor in the treatment she received and in her medical discharge. The RCMP denies the allegations.

[2] The Tribunal received Ms. Benner’s Amended Statement of Particulars in September 2024, and her Amended Reply in February 2025. These documents will be referred to as “Amended Pleadings” in this ruling. The RCMP has requested that the Tribunal strike portions of Ms. Benner’s Amended Pleadings. Specifically, the RCMP argues that the portions of Ms. Benner’s submissions that should be struck relate to her voluntary medical discharge and raise allegations of discrimination and harassment that are unrelated to the original complaint that was referred to the Tribunal by the Canadian Human Rights Commission (“Commission”). Ms. Benner opposes the request.

RULING

[3] The RCMP’s request is denied.

BACKGROUND

The Complaint

[4] Ms. Benner became a member of the RCMP in 2002, where she worked as a constable. In 2007, she began working out of the Strathcona County Detachment in Alberta. In 2011, due to a medical condition, Ms. Benner transitioned from an operational role to a non-operational administrative role as a Front Counter Officer. This transition took place to accommodate her medical condition.

[5] In 2014, a change in management at the Strathcona Detachment led Ms. Benner to receive two new supervisors. She alleges that these new supervisors repeatedly made discriminatory comments and engaged in harassing behaviour related to her disability, and that her treatment worsened after she reported this. She also alleges that after reporting her claims of discrimination and harassment, she was subjected to reprisal in the form of unfairly negative work performance feedback and placed on a Performance Development Plan.

[6] Ms. Benner alleges that because of how she was treated by her new supervisors, her work environment deteriorated. She claims that she was subject to a series of unwelcome, harassing, and discriminatory behaviors which led to a toxic and hostile work environment. Ms. Benner was placed on a medical leave in 2015.

[7] The details underlying these allegations were submitted in a Complaint that was received by the Commission in June 2018. Ms. Benner's Complaint was limited to the period of 2014-2015. It focused on alleged treatment from the two supervisors and cited sections 7(b) and 14(1)(c) of the *Canadian Human Rights Act*, RSC 1985, c H-6 ("the Act"). These provisions of the Act address discrimination in the course of employment, and harassment in relation to employment, respectively.

[8] In November 2022, the Commission referred Ms. Benner's Complaint to the Tribunal.

The Request to Strike the Complainant's Amended SOP and Amended Reply

[9] The Respondent argues that Ms. Benner's Amended Pleadings go beyond the allegations featured in Ms. Benner's Complaint and raise allegations that are distinct and do not form part of the Complaint referred to the Tribunal.

[10] Specifically, Ms. Benner's Amended Pleadings feature allegations that relate to the circumstances of her medical discharge from the RCMP, which occurred in 2018, and which the Respondent argues are beyond the scope of the Complaint currently before the Tribunal.

[11] Other allegations included in the Amended Pleadings that were not in the original Complaint and which relate to Ms. Benner's return to work efforts and eventual discharge from the RCMP, include:

- A) Adverse differential treatment by medical professionals and disability management staff working with the RCMP;
- B) Denial of a transfer for a work placement outside of the Strathcona Detachment;
- C) Misapplication of provisions under the *Royal Canadian Mounted Police Act* (R.S.C., 1985, c. R-10) ("RCMP Act") that came into effect in late November 2014;
- D) The expedited retirement of the two supervisors alleged to have adversely treated and harassed Ms. Benner;
- E) Failure to honour Ms. Benner's Duty to Accommodate status in relation to her efforts to return to work following her medical leave.

[12] The Respondent seeks to strike these allegations from Ms. Benner's Amended Pleadings. It is argued that these allegations should be struck from Ms. Benner's Amended Pleadings because they were not included in her original Complaint to the Commission.

[13] The Respondent submits that the new allegations raised have no nexus with the Complaint and amount to substantially new complaints that the Tribunal cannot consider. Doing so would improperly allow Ms. Benner to bypass the Commission's screening and investigation process as outlined in the Act.

[14] The Respondent further argues that the Tribunal should not deal with the new allegations in Ms. Benner's Amended Pleadings that go beyond the Complaint. The Respondent argues that the Tribunal should therefore strike them from her Amended Pleadings. It is also argued that the new allegations in the Amended Pleadings should be struck because they do not make out a case of *prima facie* discrimination, and that they are trivial, frivolous or vexatious, and should therefore be struck from her submissions for being insufficiently particularized.

ANALYSIS

Legal Framework

[15] The Tribunal's jurisdiction to hear complaints referred by the Commission for an inquiry flows from s. 49 of the Act. At any stage after the filing of a complaint, the Commission may refer a complaint to the Tribunal if it determines that an inquiry is warranted (subsections 44(3) and 49(1) of the Act).

[16] The Tribunal's inquiry is limited to the scope of the complaint as referred by the Commission (*Last v. Correctional Service Canada*, 2024 CHRT 112 at para 6; *Kowalski v. Ryder Integrated Logistics*, 2009 CHRT 22 at para 7).

[17] Where the Commission has not expressly limited or excluded parts of a complaint that it has referred to the Tribunal, the Tribunal assumes jurisdiction over the entire complaint (*Karas v. Canadian Blood Services and Health Canada*, 2021 CHRT 2 at para 20).

[18] After a complaint is referred to the Tribunal, the *Canadian Human Rights Tribunal Rules of Procedure, 2021*, SOR/2021-137 (the "Rules") apply to the conduct of the inquiry into the complaint. Rule 18 of the Rules requires a complainant whose complaint has been referred to the Tribunal to submit a Statement of Particulars ("SOP"). The SOP must set out the complainant's case, including details related to the facts, issues, witnesses and documents the complainant intends to present at the hearing.

[19] Additionally, Rule 21 permits a complainant to file a reply submission that sets out any facts, issues, witnesses or documents that the complainant aims to raise in replying to the Respondent's response to the complainant's SOP.

[20] The main legal principles that the Tribunal applies to motions and requests to strike SOP pleadings are outlined in *Levasseur v. Canada Post Corporation*, 2021 CHRT 32 at paras 7 to 16 [*Levasseur*]. These principles affirm that the substance of an SOP must reasonably respect the factual foundation of the allegations set out in the complaint originally made to the Commission.

[21] An SOP submitted to the Tribunal may clarify, refine and elaborate on the alleged discrimination, as new facts or new circumstances are revealed following the filing of the original complaint to the Commission (*Levasseur* at para 13). This is to recognize that

complaints before the Tribunal can evolve over time (*Shirafkan v. Immigration, Refugees and Citizenship Canada*, 2025 CHRT 73 at para 13).

[22] Still, the SOP must not go beyond the scope of the complaint referred to the Tribunal by the Commission. Otherwise, the SOP can be found to be introducing a substantially new complaint. This is not permitted by the Act (*Garnier v. Correctional Service of Canada*, 2023 CHRT 32 at paras 9-10).

[23] Introducing a substantially new complaint before the Tribunal is also not permitted because it would allow a complainant to bypass the Commission and its screening and investigation function as structured in the Act (*Mohamed v. Royal Bank of Canada*, 2023 CHRT 20 at paras 10, 12; *Canadian Association of Elizabeth Fry Societies v. Correctional Services of Canada*, 2022 CHRT 12 at para 14).

[24] When faced with a motion or request to strike or to limit the scope of a complaint, the Tribunal is required to decide the substance and the scope of the complaint by determining whether there is a sufficient connection or nexus between the allegations in the SOP and the original complaint made to the Commission. In this exercise, the Tribunal can consider any administrative forms related to the Commission's investigation and referral of the complaint to the Tribunal (*Levasseur* at paras 15 to 17).

[25] Where it is plain and obvious that the new allegations in the pleadings would fail, or not possibly succeed, this Tribunal has found that the Tribunal has authority to strike these allegations from a party's pleadings (*Temate v. Public Health Agency of Canada*, 2022 CHRT 31 [*Temate*] at paras 17, 58).

[26] Additionally, to determine whether to allow a party's pleadings to include additional facts, issues or allegations that expand the scope of the complaint, the Tribunal must also consider whether allowing this would cause incurable prejudice to the other parties (*Campos-Ruiz v. Royal Canadian Mounted Police*, 2023 CHRT 17 at para 29). Prejudice, in this context includes denying another party full and ample opportunity to know, prepare for and/or answer to the case to meet or respond to the case by way of evidence and argument (*Canada (Attorney General) v. Parent*, 2006 FC 1313 at paras 40, 43, 44).

My Reasons

[27] Ms. Benner has referenced several provisions in the Act as forming the basis of her Complaint. Considering this, I find it appropriate to clarify for the parties that I find that the legislative scope of Ms. Benner's Complaint under the Act is limited to s. 7 and 14(1)(c) of the Act. This is based on my review of Ms. Benner's original Complaint to the Commission, the Commission's Report for Decision and Record of Decision, and the facts and issues raised in Ms. Benner's Amended Pleadings. I find that these documents along with the Respondent and the Commission's materials filed with the Tribunal through the case management process collectively indicate that the true substance of Ms. Benner's Complaint falls under s. 7, which addresses discrimination in employment, and s. 14(1)(c), which addresses harassment in the employment context.

[28] In terms of the factual essence of Ms. Benner's Complaint, I view her Complaint to be a set of allegations of adverse differential treatment and harassment based on disability, wherein she claims that these alleged discriminatory practices negatively impacted her experience at work, and that these circumstances are meaningfully connected to the eventual termination of Ms. Benner's employment relationship with the RCMP. I am satisfied that the allegations in Ms. Benner's Amended Pleadings before the Tribunal fit within the factual matrix of her original Complaint to the Commission.

[29] While the complaint form filed with the Commission is a starting point for the allegations, it is the parties' SOP pleadings before the Tribunal, not the original complaint form that set the precise terms of a hearing (*Gaucher v. Canadian Armed Forces*, 2005 CHRT 1 at para 10; *Casler v. Canadian National Railway*, 2017 CHRT 6 at para 9). Considering this, just because Ms. Benner's original complaint to the Commission does not include some of the allegations found in her Amended Pleadings, it does not necessarily follow that this Tribunal should exercise its discretion to strike from the pleadings any allegation not in her original complaint. More specifically, I find that the Tribunal should not strike Ms. Benner's pleadings as requested by the Respondent.

[30] This Tribunal has also affirmed that while the Tribunal may exercise the power to strike particulars from a party's pleadings before a hearing, it must be cautious in doing so

and only exercise its discretion to do this in the “clearest of cases” (*Richards v. Correctional Service Canada*, 2020 CHRT 27 at para 86)

[31] I find that the additional allegations in Ms. Benner’s Amended Pleadings are sufficiently connected to Ms. Benner’s original complaint. This is because the additional allegations in the pleadings flow from and are a part of the chain of events that make up the heart of Ms. Benner’s complaint of discrimination and harassment in the workplace by way of multiple events including the termination of her employment with the Respondent.

[32] In other words, I find that there is a tenable link between Ms. Benner’s allegations of discrimination and harassment in her Complaint and the additional allegations related to her medical discharge from the RCMP as featured in her Amended Pleadings. The link is sufficiently made through Ms. Benner’s allegations that she would not have been subject to a medical discharge if she had not gone on medical leave. Then, she went on medical leave due to what she alleges was discriminatory and harassing treatment that included denying her a transfer to a new detachment and failure to remove her from what she viewed as a poisoned or toxic work environment.

[33] Considering this, I interpret Ms. Benner’s Amended Pleadings as reflecting a permissible evolution of her Complaint, as the pleadings provide further details, instances and occurrences of the nature and kind of discrimination she detailed in her Complaint. This is to say that I view the Amended Pleadings as serving to clarify, refine and elaborate on Ms. Benner’s original Complaint. In finding this, I also aim to make clear that I do not view the added details in the Amended Pleadings as amounting to one or more new, distinct or unrelated complaints that should first be investigated and referred by the Commission to the Tribunal.

[34] I also decline to strike the new allegations in Ms. Benner’s Amended Pleadings in the way requested by the Respondent because I do not view their inclusion as allowing these new allegations to improperly bypass the Commission’s investigation and screening function. This is because I am satisfied that through Ms. Benner’s January 15, 2021, correspondence with the Commission, she shared that she viewed her complaint as

capturing events leading up to and including her discharge in 2018. These events are later elaborated on in Ms. Benner's Amended Pleadings.

[35] In her January 2021 correspondence with the Commission, Ms. Benner claimed that the RCMP failed to accommodate her or transfer her to a safe work environment away from the Strathcona Detachment where she would not experience humiliation. She also indicated in this correspondence that without the accommodations or transfer she sought up until 2018, she felt that she had no choice but to proceed with a medical discharge.

[36] I recognize that the Respondent argues that this correspondence was never put to them to rebut at the Commission's investigation stage. But the Commission had these allegations before them and in advance of referring the Complaint to the Tribunal. The Commission opted to refer Ms. Benner's complaint in its entirety, meaning the Tribunal has jurisdiction over the Complaint in its entirety.

[37] In view of s.49(1) of the Act allowing the Commission to refer a complaint to the Tribunal at any point after receiving the complaint, the Commission is not required to investigate every allegation raised by the complainant before making a referral. Where the Commission is of the view that a part of the complaint should not be referred to the Tribunal, the Commission can and regularly does expressly exclude or limit the scope of the allegations referred to the Tribunal. The Commission did not do so in this case, although it could have done so given that Ms. Benner put these allegations before the Commission. This forms another part of my reasons not to strike the allegations challenged by the Respondent as being out of scope of the current Complaint.

[38] I must also address the Respondent's argument that the Tribunal should strike allegations from Ms. Benner's Amended Proceedings because the additional allegations that were not in her original complaint fail to establish a *prima facie* case of discrimination.

[39] It is important to note that the Tribunal can only make a finding of *prima facie* discrimination based on evidence and argument submitted at a hearing on the merits. It would be highly and incurably prejudicial to Ms. Benner if at this case management stage of the proceeding, I decided to strike any part of her allegations on basis that they do not make out a *prima facie* case of discrimination. As such, I will not consider this argument further.

[40] Additionally, the Respondent argues that the Tribunal should strike certain parts of Ms. Benner's Amended Pleadings because the additional allegations are trivial, frivolous or vexatious. I am of the view that this argument asks the Tribunal to improperly exercise a power that is not held by the Tribunal but rather belongs to the Commission under s. 41(1)(d) of the Act. Alternatively, this argument asks the Tribunal to review the Commission's decision to refer Ms. Benner's complaint in its entirety. The Tribunal does not have the power to review the Commission's decisions, as this is a power that sits with the Federal Court by way of judicial review. Considering this, I will not consider this argument of the Respondent any further.

[41] Where I agree with the Respondent's arguments is that Ms. Benner's allegations are not sufficiently particularized. Though I find that the new allegations in Ms. Benner's Amended Pleadings are sufficiently connected to Ms. Benner's underlying complaint, I am of the view that it would cause incurable prejudice to proceed with this case without having Ms. Benner provide more specific details to flesh out all the allegations in her Amended Pleadings.

[42] The prejudice I am referring to here is the prejudice of denying the Respondent full and ample opportunity to present evidence and make representations to answer to the allegations raised in Ms. Benner's Amended Pleadings. This is an opportunity that the Respondent is entitled to under s. 50(1) of the Act.

[43] To cure this prejudice to the Respondent, I have determined that Ms. Benner must provide new submissions that are adequately particularized. Specifically, Ms. Benner must provide submissions that provide more details related to her attempts to return to work and to her eventual medical discharge. Where more particulars are specifically needed is in relation to Ms. Benner's allegations of:

- A) Adverse differential treatment by medical professionals and disability management staff working with the RCMP;
- B) Denial of a transfer for a work placement outside of the Strathcona Detachment;

- C) Misapplication of provisions under the *Royal Canadian Mounted Police Act* (R.S.C., 1985, c. R-10) ("RCMP Act") that came into effect in late November 2014;
- D) The expedited retirement of the two supervisors alleged to have adversely treated and harassed Ms. Benner;
- E) Failure to honour Ms. Benner's Duty to Accommodate status in relation to her efforts to return to work following her medical leave.

[44] Ms. Benner must provide updated pleadings that include specific names, dates and particular actions by individuals in relation to these allegations. Ms. Benner must also provide more specific details about which particular provisions of the RCMP Act that she claims were improperly applied to her as an employee being accommodated for a disability. She must indicate who she alleges is specifically responsible for this misapplication and the ways that she believes that they were improperly applied to her.

[45] While my ruling focuses on the specific allegations listed above, it is important to emphasize that Ms. Benner has an obligation to adequately particularize all the allegations in her pleadings. This, again, is to allow the Respondent full and ample opportunity to prepare and respond to the Complaint before the Tribunal as required under s. 50(1) of the Act.

ORDER

[46] The Respondent's request is denied.

[47] The Complainant must submit new pleadings that comply with the reasons in this ruling and adequately particularize the following allegations raised by Ms. Benner:

- A) Adverse differential treatment by medical professionals and disability management staff working with the RCMP;
- B) Denial of a transfer for a work placement outside of the Strathcona Detachment;

C) Misapplication of provisions under the *Royal Canadian Mounted Police Act* (R.S.C., 1985, c. R-10) ("RCMP Act") that came into effect in late November 2014;

D) The expedited retirement of the two supervisors alleged to have adversely treated and harassed Ms. Benner;

E) Failure to honour Ms. Benner's Duty to Accommodate status in relation to her efforts to return to work following her medical leave.

Signed by
Anthony Morgan
Tribunal Member

Ottawa, Ontario
December 29, 2025

Canadian Human Rights Tribunal

Parties of Record

File No.: HR-DP-2894-22

Style of Cause: Joanna Benner v. Royal Canadian Mounted Police

Ruling of the Tribunal Dated: December 29, 2025

Request dealt with in writing without appearance of parties

Written representations by:

Joanna Benner, Self-represented

James Elford, for the Respondent