

HUMAN RIGHTS TRIBUNAL OF ONTARIO

B E T W E E N:

Adèle Mercier

Applicant

-and-

**Queen's University, Alistair Maclean, Christine Sypnowich, Dan Bradshaw,
David Bakhurst, Gordon Smith, Henry Laycock, Rahul Kumar, Sergio
Sismondo**

Respondents

INTERIM DECISION

Adjudicator: Sherry Liang
Date: March 10, 2011
File Number: 2010-07587-I
Citation: 2011 HRTO 497
Indexed as: **Mercier v. Queen's University**

WRITTEN SUBMISSIONS

Applicant, Adèle Mercier)	On her own behalf
)	
Respondent, Queen's University)	Ashley Brown, Counsel
)	

[1] This is an Application filed on December 8, 2010 under section 34 of Part IV of the *Human Rights Code* R.S.O. 1990, c. H. 19 as amended (the “Code”). In this Application the applicant has filed a 75-page document plus a separate 63-page document which together comprise her description of the grounds for the Application.

[2] The respondent Queen’s University (the University) filed a Request for an Order During Proceedings in lieu of filing a Form 2 Response. The University seeks a direction from the Tribunal requiring the applicant to provide certain particulars in writing, production of specified documents and an extension of time to file its Response. Counsel for the University has also recently confirmed that she represents all the individual respondents.

[3] The applicant’s response to the Request is contained in a letter dated March 2, 2011. She opposes part of the Requests. With respect to the production of documents, she states that she will release the information requested, or the requested parts, where necessary, “out of sheer goodwill.” It appears that the applicant has already collected a great number of supporting documents and organized them in binders. Although normally, the Tribunal’s Rules do not require production until a later stage of the proceeding, if the applicant does not object to providing her documents to the respondents, she is free to do so at this stage. Among other things, it will assist the parties if they decide to attend mediation.

[4] In any event, the Tribunal will direct production of one of the documents sought, #1 on Schedule B-2 to the Request. Although the Tribunal normally views requests for production of documents at this stage to be premature, it appears that the applicant may be relying on this document to provide particulars of some of the allegations of discrimination, and it would be fair for the respondents to have access to it in responding to the Application.

[5] The other documents sought are more in the nature of evidence and the applicant will be required to produce them in the normal course.

[6] The applicant opposes the Request for further particulars about dates. She states that they should be in the knowledge of the respondents.

[7] I agree with the University that despite the length of the applicant's narrative, few specific dates are given. Many events are described as having occurred during a season (for example, fall 2008 or winter 2009) a month (March 2009), or over a period of time (between fall 2008 and summer 2009).

[8] I also agree with the University that in order for it to be able to investigate the allegations and file a full Response, it is entitled to further particulars about the dates on which alleged incidents of discrimination, harassment or reprisal occurred. The allegations appear to cover a time period between 2004 and 2010. To the extent that the applicant relies on specific incidents, conversations or communications during this lengthy period to support her allegations of violations of the *Code*, she must provide the dates of these events, conversations or communications with as much certainty as possible.

[9] The University also seeks particulars of the allegations relating to the "Prado Thesis prize". The applicant states that the particulars are "well-known" to the individual respondents.

[10] The Tribunal agrees with the University that further particulars about this allegation are warranted. In order to respond to the allegation, the applicant must state, in connection with the "Prado Thesis prize", what actions of the respondents are said to violate the *Code*, by which individual(s), and on what date(s).

[11] Finally, the Tribunal is in receipt of a Request to Intervene from the Queen's University Faculty Association (QUFA) in which it states, among other things, that it is in the midst of processing two grievances filed by the applicant under the QUFA collective agreement. The Application did not indicate that there were any grievances in progress, covering the facts of the Application. The Tribunal directs the applicant and the QUFA to provide copies of the grievances.

[12] In sum, the Tribunal directs as follows:

- The applicant is directed to deliver to the respondents the letters from Susan Babbitt and Christine Overall referred to on page 30 of the applicant's Schedule 1 (Statement of Claim), within two weeks of this Case Assessment Direction.
- The applicant must provide the respondents and the Tribunal, by the same date, all specific dates reasonably within her knowledge, of any incident, conversation or communication that she alleges is part of the discrimination, harassment or reprisal.
- The applicant must provide the respondents and the Tribunal, by the same date, particulars in connection with the "Prado Thesis prize", stating what actions of which specific respondents constitute discrimination, harassment or reprisal under the *Code*, and when they occurred.
- The applicant and the QUFA are directed to provide the respondents and the Tribunal, by the same date, with copies of any grievances filed by or on behalf of the applicant, covering any of the facts or issues in the Application.
- As all respondents are represented by common legal counsel, it is only necessary for the applicant to provide the material above to legal counsel.
- The respondents must file Responses within three weeks of the date on which the above particulars and documents are provided to them.

[13] I am not seized of this matter.

Dated at Toronto this 10th day of March, 2011.

“Singed by”

Sherry Liang
Vice-chair