



HUMAN RIGHTS TRIBUNAL OF ONTARIO

B E T W E E N:

Adele Mercier

Applicant

-and-

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

Respondents

-and-

Queen's University Faculty Association

Intervenor

INTERIM DECISION

Adjudicator: Sherry Liang
Date: May 27, 2011
File Number: 2010-07587-I
Citation: 2011 HRTO 1023
Indexed as: **Mercier v. Queen's University**

[1] This Interim Decision addresses the Request to Intervene made by the Queen's University Faculty Association ("QUFA"), as well as certain procedural issues.

INTERVENTION

[2] QUFA filed a Request to Intervene on March 9, 2011, stating that it is the bargaining agent for the applicant as well as five of the individual respondents, and describing the nature of the issues in which it has an interest and which it may wish to address. It also indicates that it has filed two grievances on behalf of the applicant, which it states it is in the process of advancing, although it appears from other correspondence that at least one of these may have been settled.

[3] No other party has responded to the Request to Intervene.

[4] I am satisfied that QUFA has a significant interest in the outcome of the Application, including any remedial orders the Tribunal may direct. QUFA's request to intervene is granted. The nature and extent of its participation at the hearing will be determined by the Vice-chair assigned to hear the Application.

REQUEST TO EXTEND TIME

[5] The applicant has sent correspondence requesting an extension to file a Reply. Given the length of the extension requested, the Tribunal requests that the respondents and the intervenor provide their comments on the request, within five days of the date of this Interim Decision. The requirement to file the Reply is held in abeyance pending further direction from the Tribunal.

REQUEST FOR DOCUMENTS

[6] The applicant has indicated in her correspondence that she may wish to seek disclosure of certain documents before filing her Reply. Requests for Order may be filed with the Tribunal on a Form 10. However, the applicant is advised that the Tribunal generally finds requests for documentary disclosure prior to the timelines provided in

Rules 16 and 17 to be premature: see, for instance, *Polihronakos v. Mississauga (City)*, 2010 HRTO 1112.

REPRESENTATIVE OF APPLICANT

[7] The applicant indicated in the Application form that her representative is Pierre Mercier, and that the best manner of communicating with him is through mail. However, she has corresponded extensively with the Tribunal and the respondents directly, through email. Her representative also does not appear to have been copied on her email correspondence to the Tribunal, including her request to extend the time for filing a Reply.

[8] When a party has a representative, the Tribunal's Rules require other parties to deliver documents to that party's representative. The Tribunal also normally corresponds with the named representative only. In this case, for instance, the Tribunal delivered the Response to the applicant's representative and not to the applicant. In other instances in this file, the Tribunal corresponded directly with the applicant instead of through her representative, such as in response to her email correspondence, but this is not its normal practice.

[9] The Tribunal wishes to have clarification from the applicant about whether she continues to have a representative. The purpose of seeking this clarification is for the Tribunal and the other parties to know to whom correspondence and other documents should be sent, and in what manner. The applicant is therefore asked to indicate, within one week of the date of this Interim Decision, **whether Pierre Mercier continues to represent her** and whether he, and not the applicant, should receive correspondence from the Tribunal and the other parties, by mail as indicated on the Application form.

[10] The Tribunal therefore directs as follows:

- The QUFA is added as an intervenor to the Application;

- The respondents and intervenor may comment on the request to extend the time for filing a Reply, within five days of the date below;
- The requirement to file a Reply is held in abeyance pending further direction from the Tribunal;
- The applicant must clarify whether she continues to be represented by Pierre Mercier, within one week of the date below, and how correspondence should be sent to her representative. This Interim Decision will be sent to the applicant by email and to her representative by mail.

[11] I am not seized of this matter.

Dated at Toronto this 27th day of May, 2011.

“Signed by”

Sherry Liang
Vice-chair