



Tribunal Hearings



The Canadian Human Rights Commission deals with allegations of discrimination against federally regulated employers, unions and service providers. When possible, the Commission encourages parties to try to resolve such allegations through alternative dispute resolution (ADR). The Commission can help parties resolve disputes informally, as soon as they are brought to its attention, or after a formal complaint has been filed. If the parties cannot resolve the matter themselves, the Commission may investigate the allegations and ask the Canadian Human Rights Tribunal to hold hearings.

What is the Canadian Human Rights Tribunal?

The Canadian Human Rights Tribunal is a separate organization set up under the *Canadian Human Rights Act*. It is completely independent of the Commission.

The Tribunal is made up of a chairperson, a vice-chairperson and members who are appointed for terms of up to five years.

What is the difference between the Commission and the Tribunal?

The Commission and the Tribunal have different roles. The Commission receives inquiries from people who believe they have been discriminated against. In most cases, the Commission encourages the parties to try to resolve the dispute. If they cannot reach a settlement, the Commission investigates the allegations. After the investigation, the Commission decides whether there is enough evidence to ask the Tribunal to look into the matter.

The Tribunal determines whether discrimination actually occurred. It does so after weighing all of the evidence fairly and impartially. If it decides that discrimination occurred, the Tribunal orders an appropriate remedy.

The Commission does not have the authority to determine whether discrimination occurred. However, it may appear before the Tribunal, as well as other courts and tribunals, to represent the public interest.

What does the Tribunal do?

The Tribunal is much like a court. It conducts public hearings into complaints of discrimination filed with the Commission. However, because it is an administrative tribunal, it has more flexibility than regular courts. As a result, people who appear before it can explain their cases more fully, without having to follow strict rules of evidence.

Before conducting hearings, the Tribunal will invite the parties to participate in mediation to try to settle the matter. If the parties reach a settlement, they will submit the agreement to the Commission for approval. The Commission later monitors the settlement to ensure the parties meet the terms. If the parties cannot reach a settlement, the Tribunal schedules hearings.

How do Tribunal hearings work?

When the Commission refers a complaint to the Tribunal, the chairperson assigns either one or three members to hear the case.

- The Tribunal sets dates for the hearings and decides where they will take place.
- The Tribunal then holds the hearings, which are open to the public.
- The members assigned to the case control the proceedings and ensure that all parties have the chance to tell their side of the story.
- The parties then present their arguments and interview witnesses and experts under oath.
- The Tribunal has the power to require witnesses to appear at the hearings.
- At the end of the hearings, the Tribunal members decide whether discrimination occurred, based on the evidence before them.
- If the Tribunal members decide the evidence supports the allegations, they will order the organization or persons who committed the discrimination (the respondent) to compensate the victim.

Does the Commission participate in the hearings?

The Commission discusses all cases with the Tribunal and participates in all mediation sessions the Tribunal conducts. However, it decides whether to participate in hearings on a case-by-case basis, taking into account the public interest in the complaint. For example, the Commission will participate in hearings of cases that raise important points of law, or that deal with discriminatory policies and practices that affect many Canadians.

What kinds of remedies can the Tribunal order?

The purpose of the *Canadian Human Rights Act* is not to punish people. Instead, it is designed to resolve human rights disputes and prevent them from happening again.

If the Tribunal decides that discrimination occurred, it can order the respondent to provide one or more of the following to the victim:

- the rights and privileges that were denied, such as a job, a service or an employment benefit;
- financial compensation for lost wages or expenses related to the discrimination;
- financial compensation for the victim's pain and suffering; or
- special compensation, if it decides that the discrimination was wilful or reckless.

If the case involves a discriminatory policy, the Tribunal can order the respondent to take measures to prevent the discrimination from occurring again, such as changing a policy or putting new procedures in place.

What if I disagree with the Tribunal's decision?

Either party can ask the Federal Court of Canada to review a Tribunal decision.

FURTHER INFORMATION

For information on the Canadian Human Rights Tribunal, please visit its website at www.chrt-tcdp.gc.ca.

For information on the Commission, please visit www.chrc-ccdp.gc.ca, or contact the following.

The Commission's regional offices: Halifax, Montréal, Toronto, Edmonton and Vancouver, toll free, at 1-800-999-6899.

The Commission's national office:
344 Slater Street, 8th floor
Ottawa, Ontario K1A 1E1
Telephone: (613) 995-1151
Toll free: 1-888-214-1090; TTY: 1-888-643-3304.

This document is available in alternative formats on request.