

Canadian Human  
Rights Tribunal



Tribunal canadien  
des droits de la personne

**Citation:** 2019 CHRT 34

**Date:** August 15, 2019

**File No.:** T2274/2918

**Between:**

**AA**

**Complainant**

**- and -**

**Canadian Human Rights Commission**

**Commission**

**- and -**

**Canadian Armed Forces**

**Respondent**

**Ruling**

**Member:** Edward P. Lustig

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## **I. CONTEXT**

[1] This is a ruling on AA's request "...that the Tribunal take measures to protect my identity by:

- Identifying the complainant (AA) by initials, preferably not his own initials".

## **II. BACKGROUND**

[2] On May 6, 2014, AA filed a complaint with the Commission alleging he experienced discrimination between May 2013 and May 6, 2014 on the grounds of disability contrary to sections 7 and 14 of the *Canadian Human Rights Act (CHRA)*. In his complaint, he alleges the Canadian Armed Forces (the "CAF") engaged in adverse differential treatment and failed to provide an harassment-free environment. Subsequently, the parties have exchanged pleadings.

## **III. PARTIES' POSITIONS**

[3] AA says that he "...believes that there are real and substantial risks that my personal and medical information disclosed during hearing will cause undue hardship to me and my family". Among other things, he argues that the his diagnoses of various medical problems and required accommodations for them if disclosed publicly would be viewed negatively in obtaining future employment opportunities on the basis that he would be seen as an undesirable employee. As well, he also cites some personal family related situations that the disclosure of his medical conditions would negatively impact.

[4] AA cites section 52 of the *CHRA* and several cases that he says provide support for his position that "...this request strikes a balance between the public interest (i.e. it will allow the Tribunal to publish relevant information as it relates to my complaint), while also protecting my identity and minimizing my risk and exposure to undue hardship". He argues that his "...motion will not impact the respondent or the respondent's chosen strategy, it will not jeopardize the public's interest or public access re my complaint in an

adverse fashion, but it will grant me a degree of protection and will respect my dignity and the dignity of my family”.

[5] Both the CAF and the Commission responded to the motion to advise the Tribunal that they had no objections to the request.

#### IV. ANALYSIS

[6] Section 52(1)(c) of the *CHRA* provides as follows:

52 (1) An inquiry shall be conducted in public, but the member or panel conducting the inquiry may, on application, take any measures and make any order that the member or panel considers necessary to ensure the confidentiality of the inquiry if the member or panel is satisfied, during the inquiry or as a result of the inquiry being conducted in public, that

[....]

(c) there is a real and substantial risk that the disclosure of personal or other matters will cause undue hardship to the persons involved such that the need to prevent disclosure outweighs the societal interest that the inquiry be conducted in public;

[7] The goals of the open court principle are extremely important in establishing the independence and impartiality of the justice system and fostering public confidence in its integrity. However in exercising the discretion I have under section 52 (1) (c) of the *CHRA* the cases establish that it is necessary to balance the public interest of openness and transparency with the private interests of privacy, on a case by case basis (see *Canadian Newspapers Co. v. Canada (Attorney General)*, 1988 CanLII 52 (SCC)).

[8] In light of the fact that the other parties have not objected to AA's request to anonymizing his name in these proceedings I take it that the other parties accept the reasons advanced by him for his request, as described in paragraphs 3 and 4 of the ruling and I will do so too.

[9] Accordingly, in balancing the public interest of ensuring that inquiries are conducted in public versus the desire for privacy of AA to not have his name disclosed

publicly, there is little, if any, harm done to the goals inherent in the open court principle by allowing his request.

**V. ORDER**

[10] For the foregoing reasons, AA's name will in the future be anonymized in documents prepared and filed by the parties and in rulings and decisions of the Tribunal pertaining to this matter by referring to him as "AA".

*Signed by*

Edward P. Lustig  
Tribunal Member

Ottawa, Ontario  
August 15, 2019

# Canadian Human Rights Tribunal

## Parties of Record

**Tribunal File:** T2274/2918

**Style of Cause:** AA v. Canadian Armed Forces

**Ruling of the Tribunal Dated:** August 15, 2019

**Motion dealt with in writing without appearance of parties**

**Written representations by:**

AA, for himself

Daphne Fedoruk, for the Canadian Human Rights Commission

Kathryn Hucal, for the Respondent