

**Canadian Human
Rights Tribunal**



**Tribunal canadien
des droits de la personne**

Citation: 2023 CHRT 36

Date: August 24, 2023

File No.: HR-DP-2846-22

Between:

Robin Holmen

Complainant

- and -

Canadian Human Rights Commission

Commission

- and -

Canada Revenue Agency

Respondent

Ruling

Member: Edward P. Lustig

Table of Contents

I.	OVERVIEW.....	1
II.	BACKGROUND	2
III.	LEGAL FRAMEWORK	6
IV.	RESPONDENT'S SUBMISSIONS	7
V.	ANALYSIS	8
VI.	ORDER	9

I. OVERVIEW

[1] This is a ruling on the motion of the Respondent, Canada Revenue Agency, dated June 13, 2023 for an order that the complaint in this matter be dismissed for abuse of process.

[2] The complainant, Robin Holmen, filed her complaint with the Canadian Human Rights Commission (“Commission”) on January 11, 2019 (“Complaint”) alleging that the Respondent, as her employer, discriminated against her on the grounds of family status, marital status, sex and disability by treating her in an adverse differential manner and by failing to provide her with a harassment-free work environment, contrary to the Canadian Human Rights Act (“CHRA”).

[3] On August 1, 2022 Ms. Holmen provided her Statement of Particulars (“SOP”) in which she raised new allegations not included in her Complaint and included four notices of motion as well as documents not listed in her list of documents which itself was left blank.

[4] Subsequently, the Commission, the Respondent and the Tribunal all respectfully and genuinely attempted to assist and cooperate with Ms. Holmen, who was self-represented, to better understand the purpose of the Statement of Particulars so that it could be amended, in a manner that would allow the matter to go forward.

[5] Ms. Holmen did not provide an amended Statement of Particulars despite having advised that she would aim to do so by October of 2022. On May 9, 2023 the Tribunal attempted to set up a Case Management Conference Call (“CMCC”) in July or August but Ms. Holmen responded by emailing the parties that under no circumstances would she be “participating in a corrupted judicial process”. On the same day, the Commission advised the parties that it was completely withdrawing from the case.

[6] Ms. Holmen sent various emails to the parties and the Tribunal making vile, lewd, disgusting, disrespectful and wholly inappropriate comments, allegations, commentary and threats directed at various individuals including, counsel and employees of the Respondent, Commission staff, Tribunal Registry staff and the Tribunal Member.

[7] Ms. Holmen failed to respond to the motion by August 18, 2023 the date set by the Tribunal.

[8] The issue is whether or not Ms. Holmen's conduct in failing to respond to a request for a CMCC and in failing to respond to this motion as well as her behaviour towards the parties and the Tribunal, undermines the integrity of the judicial process to such a degree that it is an abuse of the process and her complaint ought to be dismissed.

[9] As it is evident that Ms. Holmen is not participating any further in this matter and has engaged in abusive behaviour to the parties, the Tribunal and the process, the Tribunal has no alternative but to dismiss her complaint.

II. BACKGROUND

[10] On May 31, 2022 the Commission referred the Complaint to the Tribunal. The basis for the referral was to institute an inquiry into the allegations that took place between 2014 to 2017.

[11] As noted above, in her August 1, 2022 SOP Ms. Holmen raised new allegations not included in her Complaint that was referred to the Tribunal by the Commission. In addition, she included four motions. One of the motions asked the Tribunal to express an opinion with respect to Canada's alleged non-compliance with the *United Nations Convention on the Rights of the Child (1989)* ("United Nations Convention") and another asked the Tribunal to add Canada as a Respondent to this case.

[12] As a result, on August 3, 2022 the Respondent requested that the Tribunal to convene a CMCC to discuss the apparent expansion of the scope of the Complaint.

[13] In response to the Respondent's request, Ms. Holmen emailed the Tribunal and the parties, and accused counsel for the Respondent of having associates in Edmonton who "sexually assaulted, gang talked and kidnapped her". She further provided her availability for the CMCC and added that this was in presumption that she would not be "added to the ranks of the missing and murdered women in the meantime, for violating the Government

[sic] of Canada's white patriarchal right to rape, sexually assault, stalk and terrorize anyone they please, freely at will and on command.”

[14] On September 1, 2022, the Tribunal sent a letter to the parties with information to assist regarding the purpose of an SOP and issues raised in Ms. Holmen's SOP and notices of motion. The Tribunal noted that a Complainant cannot raise it the SOP new or unrelated allegations outside of the scope of the Complaint that was investigated by the Commission and referred to the Tribunal. The Tribunal further noted that it did not have jurisdiction to provide an opinion on the United Nations Convention and that Canada was already a Respondent in the case.

[15] The CMCC was held on September 22, 2022. The Tribunal reviewed its September 1 letter to the parties and made comments to try to assist Ms. Holmen to understand the purpose of an SOP and help her make amendments to her SOP in order to allow the process to move forward. As Ms. Holmen was self-represented, counsel for the Commission offered to assist her with the preparation of an amended SOP. She agreed to speak to counsel for the Commission in the coming days and to revise the SOP by October 22, 2022, although no firm date was set by the Tribunal in order to allow her sufficient time.

[16] Despite attempts by counsel for the Commission to engage Ms. Holmen in discussions to assist her with the revision of her SOP, Ms. Holmen did not respond and did not make any amendments.

[17] On May 5, 2023 the Respondent wrote to the parties and the Tribunal requesting that either the Tribunal set a date for the delivery by Ms. Holmen of an amended SOP or set up a further CMCC to discuss moving forward with the case.

[18] In response to the Respondent's May 5, 2023 correspondence, Ms. Holmen sent two emails to the parties, the Tribunal and other members of the public, alleging that counsel for the Respondent did not “want his victims to have a voice” and that “you white Whore of Apartheid savages are in front of the regulator”. Ms. Holmen also questioned whether counsel for the Respondent had ordered the kidnapping of her children and threatened to shake his “mutherfucking house down in front of the whole planet while you face retaliation and criminal conspiracy charges.”

[19] On May 9, 2023 the Tribunal emailed the parties to request a CMCC on available dates in July or August.

[20] On the same date, counsel for the Commission wrote the parties advising that the Commission would no longer be participating in the Tribunal's process including mediation, case management or hearings.

[21] On the same date Ms. Holmen responded to the Tribunal's request for a CMCC by email to the parties and stated that, under no circumstances would she be "participating in a corrupted judicial process." She further accused all the parties of colluding to "obstruct and pervert this matter from beginning to end"; accused the Tribunal member of "planning to finally obstruct and defeat me in having regulators examine his professional conduct as the senior-most CHRT panel member by holding my children at some undisclosed location" and of holding her children ransom; and threatened that Minister Lametti would decapitate all of the recipients of her email for advancing their "conflict of interest and political agendas."

[22] In response, on the same date, the Tribunal wrote to the parties to advise that as Ms. Holmen had refused to participate it would not be possible to hold a CMCC as requested by the Respondent and that the Respondent may consider whether it wishes to bring a motion to dismiss.

[23] Following receipt of the Tribunal's correspondence, Ms. Holmen sent seven emails to the parties, the Tribunal, the Deputy Executive Director and General Counsel for the Respondent and other members of the public. These seven emails contained false accusations, vile and lewd commentary and threats against counsel for the Respondent, the Tribunal's Registry Officer, the Tribunal Member and others. Among the things that she wrote in these emails were that the Tribunal Member was a "dirty corruptible man" and that the Registry Officer was a "manipulative cunt colonial whore kidnapper".

[24] Following the Respondent's filing of this motion on June 13, 2023, Ms. Holmen responded on June 14th and June 19th with emails indicating she was hospitalized, without legal representation and seeking mediation.

[25] In its reply of June 20, 2023 to Ms. Holmen's correspondence, the Respondent pointed out that Ms. Holmen was continuing her previous behaviour by attacking various people and entities including accusing "the Commission of being corrupt and incompetent" and continuing to "white-pass rape and racism" and talking about judicial interference, "police state abuse" and general "dereliction of duty".

[26] The Respondent also pointed out in its reply that Ms. Holmen's correspondence continued to make allegations and raise issues that had nothing to do with the complaint in this case including alleged wrongdoings by the RCMP, wrongful dismissal and employment insurance and statements about individuals not referred to in the complaint. In addition, the Respondent indicated that there was no basis or proof of the claim by the Ms. Holmen of her hospitalization and that her request for mediation was the first time she had sought this while the case was before the Tribunal. The Respondent refused to agree to Ms. Holmen's request for mediation.

[27] Finally, the Respondent in its reply stated that with respect to the matter of legal representation, Ms. Holmen had never before raised this issue and did not avail herself of the offer of the Commission to assist her in amending her SOP. However, the Respondent stated that "if she does wish to retain legal counsel she should be given the opportunity to do so. This would be for the limited purpose of responding to the Respondent's motion to dismiss this Complaint as this must be dealt with before anything else can occur in this matter. It is suggested that the Complainant be given until July 31, 2023 to retain counsel, and for that counsel to make submissions on the motion failing which the Respondent's motion will be considered by the Tribunal without further delay".

[28] On June 26, 2023 the Tribunal emailed the parties to advise that Ms. Holmen had until August 18, 2023 to retain legal counsel to assist in providing a response that meaningfully responded to the Respondent's motion to dismiss and if she did not do so, or that her counsel did not make submissions by August 18, 2023, the Tribunal would decide the motion without further delay.

[29] The Tribunal did not receive any information that Ms. Holmen had retained legal counsel by August 18, 2023 nor did it receive any further submissions with respect to this motion.

III. LEGAL FRAMEWORK

[30] The Tribunal may make an order to dismiss a complaint for non-compliance with the *Canadian Human Rights Rules of Procedure, 2021* (“*Rules*”), vexatious conduct, or abuse of process, pursuant to Rules 9 and 10 of the *Rules*.

[31] Litigants in the Federal Court may be barred from continuing with their action where they have proceeded in a vexatious manner. A litigant may be considered vexatious where they have made unsubstantiated allegations of impropriety against the opposite party, legal counsel and/or the Court; refused to abide by rules and orders of the Court; or used scandalous language in pleadings before the Court. Such vexatious behaviour justifies an order of dismissal. *Tonner v Lowry*, 2016 FC 230 at paras.17-20; *Hunt v Canada*, 2017 FC 251 at para 33.

[32] An abuse of process involves proceedings that are unfair to the point that they are contrary to the interests of justice and amount to oppressive treatment. The Tribunal has the authority to invoke the doctrine of abuse of process to dismiss a complaint where the proceedings are oppressive or vexatious and violate the fundamental principles of justice underlying the community’s sense of fair play and decency. Unsupported allegations of improper conduct constitute an abuse of process. Repeated unsubstantiated allegations by a Complainant against a Tribunal Member may amount to an abuse of process leading to dismissal of the complaint where it appears the abuse will continue throughout the proceedings and no other remedy is capable of removing the prejudice caused by it. *Cecilia Constantinescu v. Service Correctionnel Canada*, 2022 CHRT at paras. 14-27.

IV. RESPONDENT'S SUBMISSIONS

[33] The Respondent submits that Ms. Holmen's conduct throughout the entirety of the inquiry of her complaint is vexatious and supports a finding of an abuse of process. In her communications to the Tribunal, the parties and others she has continually made rude, insulting, threatening and unsubstantiated statements against the Tribunal Member, members of the Tribunal staff, the parties and others alleging collusion, corruption, bias, criminality, bribery, obstructing justice and kidnapping of her children.

[34] The Respondent argues that this conduct meets the criteria outlined by the Federal Court of a vexatious litigant and has caused damage to the administration of justice. Neither the Tribunal nor the Respondent are required to tolerate insults, unsubstantiated allegations of wrongdoings or threats as part of the Tribunal process. It is wholly unreasonable to expect the Complaint to proceed in such circumstances.

[35] The Respondent submits that Ms. Holmen's conduct is not only offensive but it also lacks diligence as she has failed to revise her SOP as directed and has refused to further participate in the proceedings. Given the relentless accusations, threats and insults it is evident that this vexatious conduct will be manifested, perpetuated and aggravated throughout the conduct of the Tribunal process if allowed to continue.

[36] The Respondent also argues that as the inquiry referred to the Tribunal by the Commission relates to events that took place between 2014 and 2017, the point is now being reached where witnesses will need to recall details of events of nearly a decade ago and this delay and further delays continue to prejudice the Respondent.

[37] As such, the Respondent submits that no other remedy other than dismissal of the Complaint is reasonably capable of removing the prejudice that Ms. Holmen has caused. As she has refused to continue with the process, disrespected the Tribunal, the parties and the *Rules* the Complaint should be dismissed in order for the Tribunal to use its resources on other more deserving complaints.

V. ANALYSIS

[38] I agree with and accept all of the Respondent's submissions.

[39] Ms. Holmen's behaviour in this case is both sad and disturbing. It is difficult to comprehend what would cause a person to behave in the manner that she has, particularly given the genuine support that was offered to her by the Tribunal and the Commission to assist with her SOP.

[40] While the Tribunal must be cautious in allowing a motion to dismiss a complaint that has been referred to the Tribunal for an inquiry at a point where the pleadings have not yet been fully initiated, the facts of this case overwhelmingly require that action be taken to preserve the integrity of the process and avoid any further waste of time on a case that appears to have been abandoned by the Complainant. Tribunal resources are already scarce and should not be taken up by undeserving cases like this one while other deserving cases need to be attended to without delay.

[41] Not only are Ms. Holmen's comments towards many of the people involved with this case insulting, profane, rude and threatening but her allegations, including kidnapping her children are absurd. None of us deserve to be treated the way Ms. Holmen has treated us and this conduct will not be tolerated any longer.

[42] Moreover, Ms. Holmen's failure to amend her SOP as directed, to attend a CMCC as required or even to respond to this motion are totally disrespectful towards the Tribunal, the parties and the process and signify her abandonment of the Complaint. This is a clear case of vexatious behaviour that is an abuse of the process under the *Rules* that needs to be stopped immediately or else it will continue to waste everyone's time. There is no reasonable alternative other than dismissal of the Complaint in this case.

VI. ORDER

[43] For the foregoing reasons the motion is allowed and the Complaint is dismissed.

Signed by

Edward P. Lustig
Tribunal Member

Ottawa, Ontario
August 24, 2023

Canadian Human Rights Tribunal

Parties of Record

Tribunal File: HR-DP-2846-22

Style of Cause: Robin Holmen v. Canada Revenue Agency

Ruling of the Tribunal Dated: August 24, 2023

Motion dealt with in writing without appearance of parties

Written representations by:

Barry Benkendorf, for the Respondent