

**Canadian Human
Rights Tribunal**



**Tribunal canadien
des droits de la personne**

Citation: 2024 CHRT 84

Date: June 13, 2024

File No.: T2666/4221

Between:

Safia Mohamed

Complainant

- and -

Canadian Human Rights Commission

Commission

- and -

Royal Bank of Canada

Respondent

Ruling

Member: Marie Langlois

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I. OVERVIEW

[1] On April 2, 2024, the Tribunal had to cancel the five days of hearing scheduled to start on May 13, 2024. Ms. Safia Mohamed had not responded to any communications from the Tribunal after December 20, 2023 and she was not present at the April 2, 2024 Case Management Conference Call (CMCC), nor did she provide any explanation regarding her absence.

[2] On April 19, 2024, Royal Bank of Canada (RBC) filed a motion requesting the Tribunal to dismiss Ms. Mohamed's complaint in its entirety. On May 2, 2024, the Canadian Human Rights Commission (Commission) informed the Tribunal that it did not oppose RBC's motion.

[3] On May 6, 2024, Ms. Mohamed sent an email to the Tribunal's Registry Office requesting a new hearing. The Commission and RBC filed submissions on Ms. Mohamed's request for a new hearing, respectively, on May 8, 2024, and May 13, 2024.

[4] On May 15, 2024, the Tribunal gave the following instructions, after considering the positions of the Commission and the Respondent:

Orders :

- Ms. Mohamed to submit in writing to the Tribunal, before May 22, 2024, detailed submissions explaining each delay attributable to her as identified in RBC's April 19, 2024 motion and her position on the motion itself;
- RBC and the Commission to submit their respective position on Ms. Mohamed's submissions before May 29, 2024.

[5] On May 22, 2024, Ms. Mohamed provided her written submissions.

[6] On May 28, 2024, the Respondent provided its reply to Ms. Mohamed's submissions. On May 29, 2024, the Commission informed the Tribunal and the parties that it did not have any other submissions to provide, relying on the case law cited in its May 8, 2024 email.

II. DECISION

[7] The Respondent's motion is dismissed for the reasons given below.

III. ISSUE

[8] This ruling determines whether the Tribunal should dismiss Ms. Mohamed's complaint in its entirety.

[9] In order to decide on the matter, two questions must be answered:

A) Has Ms. Mohamed abandoned her complaint?

B) If not, was there a reasonable justification for her not to have complied with the Tribunal's deadlines or otherwise communicated with the Tribunal since December 2023?

IV. ANALYSIS

A) Has Ms. Mohamed abandoned her complaint?

[10] The proceedings at the Canadian Human Rights Tribunal should be conducted as informally and expeditiously as the requirements of natural justice and the rules of procedure allow (s. 48.9(1) *Canadian Human Rights Act*, R.S.C., 1985, c. H-6; s. 5 Rules of Procedure (2021, SOR/2021-137). Therefore, all parties are entitled to a timely and fair resolution of the complaint and the Tribunal must act as a guardian of this principle.

[11] As discussed in recent decisions, the Tribunal agrees that it is the responsibility of the Complainant to advance their file (*Towedo v. Correctional Service Canada*, 2024 CHRT 6 at paras 4-5 [*Towedo*]; *Vandermeulen v. Carry the Kettle First Nation*, 2024 CHRT 9 at para 10 [*Vandermeulen*]).

[12] When Ms. Mohamed failed to answer any of the Tribunal's communications since December 20, 2023 and was not present at the April 2, 2024 CMCC—two weeks before the book of documents were due and one month before the start of the hearing—RBC was justified to file a motion to dismiss the complaint in its entirety. After trying to get in contact

with Ms. Mohamed on April 30, 2024, without success, the Commission informed the Tribunal and the parties that it did not oppose RBC's motion.

[13] As the Tribunal was ready to render a decision on the motion, on May 6, 2024, a few days before the hearing was originally scheduled to start, Ms. Mohamed sent an email to the Registry Office requesting a new hearing. By this communication, she did let the Tribunal and the parties know that she wished to proceed with her complaint.

[14] Her conduct prior to the May 6, 2024 email could have been interpreted as if she had been disinterested in her complaint and had abandoned it. But she informed the Tribunal on May 6, 2024, that she did not intend to abandon her complaint.

[15] Therefore, the Tribunal answers no to question A: Ms. Mohamed has not abandoned her complaint.

B) Was there a reasonable justification for Ms. Mohamed not to have complied with the Tribunal's deadlines or otherwise communicated with the Tribunal since December 2023?

[16] Since she sent the May 6, 2024 email, requesting a new hearing, the dynamics of the case have changed. We must now take a closer look to her personal circumstances. Was there a reasonable justification for her not to have complied with the Tribunal's deadlines or otherwise communicated with the Tribunal since December 2023?

[17] As stated in *Rivard v. Nak'azdli Whut'en First Nation*, 2021 CHRT 21 at para 29:

“[d]ismissing complaints at an early stage of proceedings has serious consequences for a complainant's ability to proceed with their complaint and for their ability to access justice. Complainants often wait several years to get before the Tribunal after their initial complaint to the Commission, investigation, and referral to the Tribunal.”

[18] Ms. Mohamed is a self-represented complainant. She failed to comply with numerous deadlines imposed by the Tribunal to file her reply to RBC's Amended SOP (Reply):

1 Her Reply was due on July 24, 2023.

2 On July 26, 2023, she asked for an extension citing internet issues, saying she had difficulties attaching a document to her email on her

- telephone. She requested a delay until July 28, 2023 to submit it from the library.
- 3 On July 27, 2023 the Tribunal granted a small delay to file the Reply. ***She did not file her Reply.***
 - 4 On August 1, 2023, the Tribunal informed Ms. Mohamed that it expected to receive the Reply by the end of the day. ***She did not provide it.***
 - 5 On August 2, 2023, Ms. Mohamed advised that she was scheduled for work and did not have an opportunity to go to the library. She would send the Reply that day after 4:30pm. ***She did not send her Reply.***
 - 6 On August 14, 2023, the Tribunal informed the parties that it did not receive the Reply and, as a result, it considered that Ms. Mohamed had no reply to submit to RBC's Amended SOP.
 - 7 On August 15, 2023, Ms. Mohamed said she had a family emergency, but she was going to send her Reply by the following Friday, August 18, 2023. ***She did not provide her Reply.***
 - 8 On November 14, 2023, at the CMCC, Ms. Mohamed was present, and she asked again for an extension of time until November 17, 2023 to file her Reply. The parties did not object. The extension was granted. ***She did not provide her Reply.***
 - 9 At the November 14, 2023 CMCC, the hearing dates were tentatively scheduled for five days starting on May 13, 2024.
 - 10 On November 20, 2023, in an email to the Registry Office, she said she did not submit her Reply because she did not get the internet connection in her new place the previous week. She was waiting for the equipment to arrive from Bell Canada. She could not attach any document to her telephone. She mentioned that as soon as she gets internet connection, she would send her Reply. ***She did not provide her Reply.***
 - 11 On December 14, 2023, the Tribunal sent an email to the parties asking Ms. Mohamed for an update on filing her Reply.
 - 12 On December 20, 2023, Ms. Mohamed confirmed in a phone call with a Registry Officer that she would submit her Reply during the weekend (December 21 or 22). ***She did not provide her Reply.*** That was the last communication with Ms. Mohamed until her email from May 6, 2024.
 - 13 On January 4, 2024, the Tribunal sent an email asking Ms. Mohamed for an update on filing her Reply. ***She did not respond.***
 - 14 On January 26, 2024, a Registry Officer called Ms. Mohamed. ***She did not answer her telephone.***
 - 15 On February 1 and 9, 2024, the Registry Office asked the parties to confirm their availability for a CMCC in April 2024. ***Ms. Mohamed did not respond.***
 - 16 On February 26, 2024, the Tribunal informed the parties that a CMCC will be held on April 2, 2024.
 - 17 On April 2, 2024, the CMCC was held. ***Ms. Mohamed was not present and she did not explain her absence.***

- 18 On April 19, 2024, RBC filed a motion to dismiss Ms. Mohamed's complaint in its entirety.
- 19 On April 19, 2024, the Tribunal requested the Commission and Ms. Mohamed to file their respective responses to the motion by May 3, 2024.
- 20 On May 2, 2024, the Commission filed its response informing the parties that it emailed and **called Ms. Mohamed without success**. The Commission did not object to RBC's motion.
- 21 At the date limit, on May 3, 2024, **Ms. Mohamed did not provide her position on RBC's motion** to dismiss her complaint in its entirety.

[19] In summary, on six occasions, Ms. Mohamed failed to provide her Reply to RBC's Amended SOP after several extensions of time that she requested and were granted. She did not answer her phone on two occasions when the Registry Office and the Commission tried to contact her, and she did not answer emails from the Tribunal on numerous occasions. She was completely absent from all communications between December 20, 2023 and May 6, 2024.

[20] RBC pleads two main arguments to sustain its motion to reject the complaint in its entirety:

- (a) Ms. Mohamed has not provided reasonable and credible reasons for each delay attributable to her as identified in RBC's April 19, 2024 motion.
- (b) Taken in the broader context of the Complainant's repeated pattern of excuse, delay, and non responsiveness, the Complainant has unjustifiably delayed the hearing of the complaint. RBC is of the opinion that Ms. Mohamed will continue to demonstrate a general disregard for the Tribunal's process if the complaint proceeds.

[21] In her May 6, 2024 email to the Tribunal, Ms. Mohamed mentioned that she has been homeless. She wrote that when she spoke to the Registry Officer, she thought she had a home but she unfortunately lost that place due to infestation. She has not found a place since then. Her and her family have been living at different places and are now hopeful to have a place by this coming July or August. She added that she was unable to focus on anything except keeping her current job while not having a home.

[22] She further explained in her May 22, 2024 submissions that at the time of the unanswered correspondences from the Tribunal, she was homeless and was constantly worried about where she would sleep every night. She lost her apartment in June 2023 and

could not comply with the July 2023 deadline to provide her Reply to RBC's Amended SOP. Afterwards, she was moving around to different places where she would stay with friends, others in her community and, at times, she slept on park benches or in friends' cars in parking lots.

[23] In November 2023, she found a basement apartment. She was then able to attend the November 14, 2023 CMCC, asking for an extension of time that she thought she could honour. She failed again and it turned out that she would have no place to stay again. She said it was a vicious circle repeating in front of her eyes.

[24] Further, she spoke with the Registry Officer in December 2023 and said she was getting the internet and intended to submit her Reply the following weekend, which she did not manage to do. She said the place where she was staying was infested with mice and bed bugs. She told the owner, who took offence and demanded that she vacate the apartment immediately. She did, and again, she had no place to stay. She explained that she could not use her phone since it was an old model being refurbished and she could not attach documents using it.

[25] During the day, she was at work and could not submit documents and at night, she had no place to go. She was experiencing high levels of stress "due to things spiraling out of control" around her. She said she was losing control, was overwhelmed and could not think clearly or prioritize. She was stressed out, could not eat or sleep because her situation consumed her. She was not checking her emails and gave up on almost everything.

[26] She claims she never really intended to abandon her complaint, but she was experiencing extremely difficult problems, as a homeless person. She now has hope to resume her normal life when she gets a place to stay, which should be by the end of June or mid July 2024 or early August 2024.

[27] The Tribunal is of the opinion that it is true that Ms. Mohamed has not given her full attention to the deadlines and timetable ordered by the Tribunal. This is the kind of conduct that could lead to the dismissal of a complaint as the Tribunal has ruled in recent decisions (see e.g. *Towedo*; *Vandermeulen*; *Homeniuk v. Correctional Service Canada*, 2024 CHRT 17; *Arcand v. Correctional Service Canada*, 2024 CHRT 20).

[28] In these decisions, the Tribunal concluded in the abandonment of the complaint for a total lack of communication from the complainant after a long period of time, which is not the case in the present file.

[29] In the present case, Ms. Mohamed failed to respond to the communications of the Tribunal for a period of a little over four months, between December 2023 and May 2024, but she contacted the Registry Office on May 6, 2024. That changes everything.

[30] It is true that she failed to respect the timetable imposed by the Tribunal. It is also true that she made promises to provide some documents on certain dates after she requested time extensions, and she did not follow through. It is also true that she did not answer her telephone and did not respond to the Tribunal's emails for about four months, and answered only seven days before the hearing was supposed to start.

[31] The Tribunal is of the opinion that these failures by Ms. Mohamed are not fatal to the process considering the reasonable and acceptable justifications.

[32] Her May 6, 2024 email speaks for itself and her submissions on May 22, 2024 shed light on the complexity of her personal situation.

[33] The Tribunal is not insensitive to the complexity of life as a homeless person. I am of the opinion that a reasonable person under the same circumstances and going through the same hardship would have probably been unreachable for a period of a few months like Ms. Mohamed, until her situations stabilizes.

[34] In consequence, RBC's motion is dismissed.

[35] In order to avoid abuse to the administration of justice and in order to respect the limited resources of the Tribunal (*see Nienhuis v. Correctional Service Canada*, 2023 CHRT 7; *Letnes v RCMP*, 2022 CHRT 32), Ms. Mohamed is officially warned that further delays on her part could bring the Tribunal to reject documents she intends to file or to take any other measures deemed appropriate.

V. ORDER

[36] Royal Bank of Canada's April 19, 2024 motion to dismiss Ms. Mohamed's complaint in its entirety is dismissed.

Signed by

Marie Langlois
Tribunal Member

Ottawa, Ontario
June 13, 2024

Canadian Human Rights Tribunal

Parties of Record

File No.: T2666/4221

Style of Cause: Safia Mohamed v. Royal Bank of Canada

Ruling of the Tribunal Dated: June 13, 2024

Motion dealt with in writing without appearance of parties

Written representations by:

Safia Mohamed, Self-represented Complainant

Aby Diagne, for the Canadian Human Rights Commission

Sunil Kapur and Marco Fimiani, for the Respondent