



HUMAN RIGHTS TRIBUNAL OF ONTARIO

BETWEEN:

Carol Ann Gibson

Applicant

-and-

**The Young Women's Christian Association of Hamilton
and Sheridan College Institute of Technology and Advanced Learning**

Respondents

DECISION

Adjudicator: Mark Hart

Date: June 9, 2015

File Number: 2013-16260-I

Citation: 2015 HRTO 764

Indexed as: **Gibson v. The Young Women's Christian Association of Hamilton**

APPEARANCES

Carol Ann Gibson, Applicant)))	Self-represented
The Young Women's Christian Association of Hamilton, Respondent))))	Timothy Duggan, Counsel
Sheridan College Institute of Technology and Advanced Learning, Respondent))))	Patricia Murray, Counsel

[1] This is an Application filed on November 28, 2013, alleging discrimination with respect to housing and services because of race, colour, place of origin, citizenship, disability, family status, marital status, age and association with a person identified by a protected ground contrary to the *Human Rights Code*, R.S.O. 1990, c. H.19, as amended (the “*Code*”).

[2] When the Application was first filed with the Tribunal, it was not possible to understand what had happened that made the applicant believe that her human rights had been violated. The Application listed many potential respondents but did not provide a clear explanation about how these respondents were involved.

[3] Another problem was that some of the events that the applicant did describe occurred more than one year before the Application was filed. The *Code* says that a person must file an Application within one year of the events to which the Application relates. A late Application may be accepted if there is a good reason for the delay or if they are part of a longer series of events. Because at least some of the allegations seemed to relate to things that happened more than a year before the Application was filed, the Tribunal issued a Notice of Intent to Dismiss and invited the applicant to provide clarification about this issue and also about what it is she alleges had occurred that involves her *Code*-protected rights.

[4] The applicant responded to the Notice of Intent to Dismiss by providing a letter dated January 22, 2014, which outlines her allegations.

[5] One set of allegations of discrimination and harassment that the applicant alleges she experienced arose while she was living at the Hamilton YWCA building at 75 MacNab Street South.

[6] A second set of allegations refers to events in approximately August 2013 which concern difficulties the applicant experienced in obtaining records from Sheridan College. The applicant suggests that these difficulties were created by Sheridan College in reprisal for the fact that she had filed an earlier Application against Sheridan College.

[7] While the Application as filed by the applicant also mentioned a large number of health care professionals, along with the Colleges governing those professionals, the Ministry of Health, and the Health Professions Appeal and Review Board, the Ministry of Community and Social Services, the Financial Services Commission of Ontario, lawyers, an insurance company, and various courts and court officials, the documents the applicant sent to the Tribunal included no information about what it is she alleges happened involving any of these potential respondents.

[8] By Case Assessment Direction dated April 28, 2014, the allegations as against the Hamilton YWCA and Sheridan College were referred for a summary hearing. With regard to her allegations against other individuals and entities, the applicant was directed to provide specifics regarding how and when it was alleged that these individuals and entities violated her rights under the *Code*. As the applicant failed to do so, these allegations did not proceed further.

[9] The summary hearing was held by teleconference on February 9, 2015. I heard oral submissions from the applicant and counsel for both respondents. I also considered the written materials that had been filed by the parties for the purpose of the summary hearing.

[10] Rules 19A.1 and 19A.2 of the Tribunal's Rules of Procedure read as follows:

19A.1 The Tribunal may hold a summary hearing, on its own initiative or at the request of a party, on the question of whether an Application should be dismissed in whole or in part on the basis that there is no reasonable prospect that the Application or part of the Application will succeed.

19A.2 Rules 16 and 17 do not apply to summary hearings. The Tribunal may give directions about steps the parties must take prior to the summary hearing, including disclosure or witness statements.

[11] Details about the nature of a summary hearing were set out as follows in *Dabic v. Windsor Police Service*, 2010 HRTO 1994 at paras. 8 and 9:

In some cases, the issue at the summary hearing may be whether,

assuming all the allegations in the application to be true, it has a reasonable prospect of success. In these cases, the focus will generally be on the legal analysis and whether what the applicant alleges may be reasonably considered to amount to a *Code* violation.

In other cases, the focus of the summary hearing may be on whether there is a reasonable prospect that the applicant can prove, on a balance of probabilities, that his or her *Code* rights were violated. Often, such cases will deal with whether the applicant can show a link between an event and the grounds upon which he or she makes the claim. The issue will be whether there is a reasonable prospect that evidence the applicant has or that is reasonably available to him or her can show a link between the event and the alleged prohibited ground.

[12] The Tribunal does not have the general power to deal with allegations of unfairness. It can only deal with alleged discrimination or harassment on the grounds set out in the *Code*. To succeed in an Application, an applicant must be able to prove discrimination on the basis of a *Code* ground on a balance of probabilities. To show discrimination, an applicant must prove a link between a respondent's alleged actions and a *Code* ground cited in the Application.

[13] At the summary hearing, the applicant confirmed that her allegations were as set out in her January 22, 2014 letter to the Tribunal. Accordingly, I will address these allegations and assess whether the applicant has established that there is a reasonable prospect that she would be able to succeed at a hearing in establishing a violation of her rights under the *Code* as against the respondent to which each allegation relates.

[14] With regard to the applicant's allegations against the Hamilton YWCA, the first allegation relates to a comment alleged to have been made on September 13, 2013 by an employee of a sexual assault centre which has an office located in the Hamilton YWCA building. The applicant alleges that this individual said that the applicant "is not part of the community". The applicant says that this comment was made during a Take Back the Night event with which the applicant was not involved. The applicant states that she does not know the individual who made the comment and does not know why the comment was made. When asked how she was alleging that this comment is related to any of grounds protected under *Code* that are cited in her Application, the

applicant was only able to speculate that the comment relates to some unidentified connection that the alleged maker of the comment has with other residents in the Hamilton YWCA who do not like the applicant. In my view, the applicant has failed to provide any reasonable basis to connect or link this alleged comment to any ground protected under the *Code*, or to show how the Hamilton YWCA could be held legally responsible for a comment made by an employee of a sexual assault centre that is simply located in the same building.

[15] The next alleged incident dates from August 12, 2013, when the applicant became aware that some unknown person had written a derogatory and threatening comment about her on a toilet seat in the communal washroom at the Hamilton YWCA. In her January 22, 2014 letter, the applicant alleges that this comment was written because she was not liked by other residents because the applicant had gone to college, because she had words with other residents about following house regulations, and because the applicant had previously involved the police to address resident conduct. When asked how she was making a link or connection between this allegation and any of grounds protected under *Code* that are cited in her Application, the applicant was unable to identify any such link or connection. Rather, she repeated that she has been told to her face that other residents do not like her, she alleged that these other women are criminals and they do not like that the applicant knows this because she has reported their activity to the police, and she alleged that these other women do not like the idea that the applicant has gone to college. These submissions do not establish any link or connection between the alleged comment written in the community washroom and any ground protected under the *Code*.

[16] The next incident dates from September 6, 2013, when the applicant alleges that another resident took clothes from the applicant's laundry. In her January 22, 2014 letter, the applicant alleges that this was because this other resident has said that she does not like the applicant. When asked how this alleged incident is related to any of grounds protected under *Code* that are cited in her Application, the applicant stated that this other resident is a criminal and has gotten herself into trouble, and speculated that

this other resident does not like the applicant because the applicant has involved the police in addressing resident conduct at the Hamilton YWCA. The applicant then proceeded to say that other residents at the Hamilton YWCA do not like her because she is an intelligent person, because she is single, because she has knowledge they cannot stand, because she is White, and because she knows the police. When asked what evidence she would bring forward at a hearing to establish any link or connection between this other resident taking laundry from the applicant and the applicant's race or marital status, the applicant responded that this is based on the way these other residents treat her. The applicant was unable to identify any specific or cogent evidence to show any connection between how she alleges she was treated by these other women and her race, marital status or any other *Code*-protected ground. Accordingly, I find that this allegation has no reasonable prospect of success.

[17] The next incident dates from May 22, 2013, when the applicant alleges that a YWCA supervisor came to her door to discuss an incident from the previous day when the applicant is alleged to have waved a fork at another resident in the common area. In her January 22, 2014 letter, the applicant connects this incident to the applicant having previously reported this supervisor to Children's Aid Society and the police. When asked how she was saying that this incident is related to any of grounds protected under *Code* that are cited in her Application, the applicant stated that this supervisor had caused a lot of trouble for the applicant's family and previously had harassed the applicant's father, and that this supervisor cannot stand the applicant because she is a member of that family. There is nothing here that establishes any link or connection between this alleged incident and any *Code*-protected ground.

[18] The next incident dates from sometime prior to July 2, 2013, when it is alleged that a YWCA resident and three others took pictures of the applicant with a cellphone and posted these pictures on social media without the applicant's consent. When asked how she is saying that this is related to any of grounds protected under *Code* that are cited in her Application, the applicant was only able to say this was unkind and unfair to her and was done to be malicious and hateful. Once again, there is nothing here that

provides any basis to establish a connection or link between this alleged incident and any *Code*-protected ground.

[19] The last incident relating to the Hamilton YWCA dates from December 25, 2013, when the applicant alleges that another YWCA resident admitted that she took the applicant's mail. When asked how she is saying that this is related to any of grounds protected under *Code* that are cited in her Application, the applicant once again was only able to say that she believes that this action was hateful and malicious and also was criminal activity and mail tampering. As with the previous allegations, there is nothing here to provide any basis for a connection or link between this allegation and any *Code*-protected ground.

[20] Accordingly, with regard to the Hamilton YWCA, I find that the Application has no reasonable prospect of success on the basis that the applicant has been unable to demonstrate any link or connection between the allegations she has raised and a ground protected under the *Code* that is cited in her Application. Further, to the extent that the applicant's allegations relate to the conduct of other YWCA residents or employees of agencies located in the same building, the applicant has not established any basis upon which the Hamilton YWCA can be held legally responsible for such alleged conduct.

[21] With regard to Sheridan College, the applicant alleges that on August 9, 2013, she attended at the College to try to "settle" two courses in order to obtain her diploma. The applicant states that during the course of these efforts, she was required to deal with a number of different people. The Application alleges that the difficulties experienced by the applicant on that day were in reprisal for the applicant having filed a previous Application against Sheridan College in 2010. When asked on what basis she is alleging that what occurred on August 9, 2013 was related to her previous Application or that the people she dealt were even aware of her previous Application, the applicant was unable to provide any meaningful response other than to say that there was no need for what these individuals did to her that day and that she still does not have her diploma. This does not provide any basis to establish a link or connection between what

occurred that day and the previous Application the applicant had filed three years earlier. Accordingly, I find that this allegation against Sheridan College also has no reasonable prospect of success.

ORDER

[22] For the foregoing reasons, the Application is dismissed in its entirety as having no reasonable prospect of success.

Dated at Toronto, this 9th day of June, 2015.

“Signed by”

Mark Hart
Vice-chair