

2012 CarswellOnt 6206,

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Cadarette v. Peel Regional Police Services Board

Kimberly Cadarette, Applicant and The Regional Municipality of Peel Regional Police Services Board and Peel Regional Police Association, Respondents

Ontario Human Rights Tribunal

Alison Renton Adjud.

Judgment: May 17, 2012
Docket: 2010-04722-I

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Counsel: Selwyn A. Pieters (written), for Applicant, Kimberly Cadaratte

Patty G. Murray, Laurie A. Reesor (written), for Respondent, Regional Municipality of Peel Regional Police Services Board

Gary Hopkinson (written), for Respondent, Peel Regional Police Association

Subject: Constitutional; Employment; Civil Practice and Procedure

Human rights --- Practice and procedure — Commissions, tribunals and boards of inquiry — Complaints and pleadings — Summary dismissal of complaint — Miscellaneous.

Human rights --- What constitutes discrimination — Sex — Employment — Miscellaneous.

Cases considered by *Alison Renton Adjud.*:

Cadarette v. Peel Regional Police Services Board ([2010](#)), [2010 CarswellOnt 9355](#), [2010 HRTO 2399](#) (Ont. Human Rights Trib.) — referred to

Cadarette v. Peel Regional Police Services Board ([2011](#)), [2011 CarswellOnt 8981](#), [2011 HRTO 1660](#) (Ont. Human Rights Trib.) — referred to

Cadarette v. Peel Regional Police Services Board ([September 19, 2011](#)), [Doc. 2010-04722-I](#) (Ont. Human Rights Trib.) — referred to

Statutes considered:

Human Rights Code, R.S.O. 1990, c. H.19

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s. 34 — pursuant to

Alison Renton Adjud.:

1 The applicant filed an Application with the Tribunal under section 34 of the *Human Rights Code*, R.S.O. 1990, c. H.19, as amended (the "*Code*"), on February 1, 2010 alleging discrimination in employment on the basis of disability, sex (including sexual harassment), sexual solicitation and reprisal. At the time of filing her Application, the applicant was self-represented.

2 Initially the applicant named The Regional Municipality of Peel Regional Police Services Board ("Peel"), Peel Regional Police Association ("PRPA"), Ottawa Police Service and Ottawa Police Association as respondents. All the respondents filed Responses and all the respondents, except for Ottawa Police Service, filed Requests for Order During Proceedings ("RFOP") requesting that the Application be dismissed against them on the basis of delay and lack of *prima facie* case against them. Subsequently, the respondents, except for Ottawa Police Service, filed Requests for Summary Hearing requesting that the Application be dismissed against them.

3 Subsequent to the materials being filed by the respondents, the applicant retained counsel and on August 10, 2010, counsel for the applicant wrote to the Tribunal, copying the respondents, advising that he had been retained and that the applicant would be seeking to amend her Application. He requested that the Tribunal put the issues raised in the respondents' materials in abeyance while the Tribunal first considered if the applicant could amend her Application and he filed a RFOP requesting to amend the Application. The respondents objected to the suggestion that their issues be held in abeyance pending the Application being amended.

4 In an Interim Decision dated September 7, 2011 ([\[*Cadarette v. Peel Regional Police Services Board*\] 2011 HRTO 1660](#) (Ont. Human Rights Trib.)) ("Interim Decision"), the Tribunal dismissed the Application as against the Ottawa Police Service and Ottawa Police Association on the basis of delay, but continued the Application against Peel and PRPA.

5 At paras. 59 to 62 of the Interim Decision, the Tribunal addressed the applicant's request to amend her Application. The Tribunal stated:

As set out in para. 6 above, after being retained, the applicant's counsel wrote to the Tribunal, copying the other parties, advising that he planned to amend the Application and subsequently filed a RFOP to amend the Application. The RFOP contained very little particulars and details about how the applicant sought to amend her Application. The Tribunal notes that Peel and PRPA have filed submissions in response to the applicant's request to amend her Application.

The Tribunal directs the applicant to deliver to Peel and PRPA and file with the Tribunal within 10 days of the date of this Interim Decision a copy of her proposed amended Application as against Peel and PRPA and upon which she now seeks to rely. To be clear, this does not mean that the Tribunal will automatically be permitting the applicant to amend her Application as the Tribunal will still need to make this determination based upon the submissions of the parties. If the applicant seeks to file additional submissions about her ability to amend her Application, in addition to the RFOP she already filed, she is directed to deliver those to Peel and PRPA and file them with the Tribunal within 10 days of the date of this Interim Decision.

If Peel and/or PRPA wish to file further submissions in response to the applicant's RFOP to amend her Application, they are directed to deliver them to the other parties and file them with the Tribunal within 10 days after they receive the applicant's proposed amended Application.

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The Tribunal will consider the parties' submissions about the applicant's request to amend her Application and may issue further case directions.

6 An Interim Decision was issued by the Tribunal dated September 19, 2011 [[September 19, 2011](#)], [Doc. 2010-04722-1](#) (Ont. Human Rights Trib.) ("the September Interim Decision"). In the September Interim Decision, the Tribunal granted the applicant an extension until October 14, 2011, to file the material she was directed to file in the Interim Decision. The applicant submitted a proposed revised Application dated October 11, 2011 ("the proposed amendments"), which contains 71 paragraphs of allegations and includes, for the first time, a personal respondent. The applicant did not file additional submissions about her ability to amend her Application and the time for doing so has passed. The applicant did not file a copy of the proposed amendments with the personal respondent.

7 Peel filed submissions dated October 28, 2011, and after receiving an extension from the Tribunal to file additional submissions. The October 2011 submissions were filed in addition to those it filed in August 2010. Peel objects to the proposed amendments in their entirety on a number of grounds. Peel does not indicate that it represents the personal respondent.

8 PRPA filed submissions, dated October 17, 2011, objecting to the proposed amendments. PRPA does not indicate that it represents the personal respondent.

9 In reviewing the parties' submissions, it became apparent that the applicant has not provided a copy of the proposed amendments to the personal respondent. Before determining whether the applicant can amend her Application as claimed in the proposed amendments, it seems to me, and in the interests of natural justice, that the proposed personal respondent ought to be advised of the allegations against him and given an opportunity to provide submissions into whether or not the applicant should be permitted to amend her Application as set out in the proposed amendments.

10 The respondents are directed to confirm in writing to the Tribunal, copying the other parties, within five (5) days of the date of this Case Assessment Direction, whether or not they are representing the proposed personal respondent and whether they intend to make any further submissions on behalf of the personal respondent.

11 If neither respondent advises that it is representing the proposed personal respondent, within seven (7) days of receipt of this information, the applicant shall deliver to the proposed personal respondent:

- A copy of her Application, proposed amendments, RFOP dated August 10, 2010, submissions dated October 30, 2011;
- A copy of the respondents' Responses and Requests for Summary Hearing;
- A copy of the respondent Peel's submissions dated October 28, 2012;
- A copy of the respondent PRPA's submissions dated October 17, 2011;
- A copy of the Tribunal's Interim Decisions dated December 2, 2010 [[2010 CarswellOnt 9355](#) (Ont. Human Rights Trib.)], September 7, 2011 and September 19, 2011; and
- A copy of this Case Assessment Direction.

12 In doing so, the applicant is directed to copy the Tribunal and the respondents with her covering letter to the proposed personal respondent, but not provide copies of the ordered documentation to the Tribunal or the respondents.

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13 If the proposed personal respondent is not represented by either respondent and wishes to make submissions on whether or not he should be included as a personal respondent, then he is directed to deliver such submissions to counsel for the applicant and counsels for the respondents, and file submissions with the Tribunal within twenty-one (21) days of the date that such material was delivered to him. In the event that the proposed personal respondent does not file such submissions, then the Tribunal will make its determinations based upon the information before it and/or issue further case management directions.

14 I am not seized of this matter.

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