

## TRIBUNAL WATCH ONTARIO

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### **Appointment and recruitment process for Associate Chair of the Human Rights Tribunal of Ontario**

Tamara Kronis, who was appointed Associate Chair for the Human Rights Tribunal of Ontario (HRTO) on July 30, 2020, is stepping down to run for the Conservative Party in the next federal election.

Tribunal Watch Ontario calls on the government and Tribunals Ontario to commit to a full and transparent recruitment and appointment process to fill this very important position and to ensure that the process complies with the applicable legislation. We have previously expressed concerns over a number of senior level appointments to Tribunals Ontario – see: [Concerns Arising from the Recent Associate Chair Appointment to the Human Rights Tribunal of Ontario, Tribunal Watch, August 6, 2020](#) and [Concerns Arising from the Recent Associate Chair Appointment to the Social Benefits Tribunal, Tribunal Watch, September 10, 2020](#).

The Associate Chair of the HRTO reports to the Executive Chair of Tribunals Ontario, the cluster of 14 adjudicative tribunals. The Associate Chair is effectively the Chair of the tribunal, with responsibility for the recruitment and training of new members, management of the case load, development of rules and overall leadership<sup>1</sup>.

Section 32(3) of the [Human Rights Code](#) provides specific direction about the selection process for the appointment of members to the HRTO, which includes the Associate Chair (see Appendix). Section 14 of the [Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009](#) has similar criteria, and also requirements to make public the steps to be taken in the recruitment process (see Appendix).

Together, these statutes require that the recruitment process and qualifications for the position be clearly described and that there be a competitive and merit-based selection process. Tribunal Watch Ontario urges Tribunals Ontario and the government to take steps to ensure a process that will produce the best possible candidates and avoid further appearance of politicization of tribunal appointments. In addition to involving human resources professionals, we also recommend that the selection committee include at least one person who is not part of Tribunals Ontario or the government (for example, a representative from the Ontario Bar Association or a former tribunal chair or chair of a different tribunal).

The HRTO has not fared well over the past few years. The number of adjudicators is still low compared to the numbers required to manage the case load. While some competent human rights adjudicators have been appointed, many have been appointed with limited or no adjudication experience or expertise in human rights law. The backlog is now very significant with delays that are now so long that the tribunal cannot possibly deliver timely access to justice. The Tribunal has released very few decisions on the

merits of applications compared to historical numbers. While some of this is due to the pandemic, much is not.

This situation will require strong and committed leadership, which makes the recruitment and selection process for the new Associate Chair especially important.

## **Appendix – Legislative References**

### *Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009:*

**14** (1) The selection process for the appointment of members to an adjudicative tribunal shall be a competitive, merit-based process and the criteria to be applied in assessing candidates shall include the following:

1. Experience, knowledge or training in the subject matter and legal issues dealt with by the tribunal.
2. Aptitude for impartial adjudication.
3. Aptitude for applying alternative adjudicative practices and procedures that may be set out in the tribunal's rules.

(2) If a member of an adjudicative tribunal is required by or under any other Act to possess specific qualifications, a person shall not be appointed to the tribunal unless he or she possesses those qualifications.

(3) The responsible minister of an adjudicative tribunal shall make public the recruitment process to select one or more persons to be appointed to the tribunal and in doing so shall specify,

- (a) the steps intended to be taken in the recruitment process; and
- (b) the skills, knowledge, experience, other attributes and specific qualifications required of a person to be appointed....

### *Human Rights Code:*

**32** (3) The selection process for the appointment of members of the Tribunal shall be a competitive process and the criteria to be applied in assessing candidates shall include the following:

1. Experience, knowledge or training with respect to human rights law and issues.
2. Aptitude for impartial adjudication.
3. Aptitude for applying the alternative adjudicative practices and procedures that may be set out in the Tribunal rules.