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Ontarians' human rights are at risk because the system designed to protect them is broken

A backlog of 9,000 cases at the human rights tribunal means thousands of Ontarians are waiting months, even years, to see their violations addressed.

By [Amira Elghawaby](#) Contributing Columnist
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Piera Savage is a staff lawyer at the Black Legal Action Centre. "Our clients are contacting us in a panic, wondering why the tribunal is trying to dismiss their case before the respondent has even had a chance to respond and without any hearing from them," said Savage. JEROME CLARK

Piera Savage has grown accustomed to receiving frantic phone calls from clients confused by a letter sent to them by the Human Rights Tribunal of Ontario.

The staff lawyer at the non-profit Black Legal Action Centre often has to help them respond to what's called a Notice of Intent to Dismiss, or NOID. It's often the first time the claimant has even heard from the institution in months, sometimes years, after submitting a complaint of discrimination in the workplace, housing, or other settings.

"Our clients are contacting us in a panic, wondering why the tribunal is trying to dismiss their case before the respondent has even had a chance to respond and without any hearing from them," explained Savage over the phone. "It just feels like their experience is being undermined by the tribunal, by the very institution they seek justice from and they question whether the process will be fair."

When the legal clinic or other legal professionals respond to the notices, claims often continue on to the next step in the process. But not everyone has access to legal support. Savage and other experts have raised concerns about the hundreds of unrepresented applicants, comprising 80 per cent of all claims, according to the HRTO

Open Data Inventory. These applicants would likely struggle to respond to the legalese contained within the communications, which can cite case law and require a response within short timelines.

A current backlog of nearly 9,000 cases at the human rights tribunal means that thousands of Ontarians are waiting months, even years, to see their violations addressed.

“People who have experienced discrimination in employment, services, or housing, as well as people such as employers and business owners seeking to respond to these allegations, are unable to obtain a resolution at the Human Rights Tribunal of Ontario,” reads a [statement of concern](#) from Tribunals Watch Ontario. Furthermore, where the tribunal used to release over 100 full decisions annually, the number is now down to just 16, according to [its annual report](#).

Beyond the long delays and the move away from holding in-person oral hearings, or sometimes any hearings at all, what was reformed over a decade ago to become a simple, straightforward, direct-access system has become increasingly difficult to navigate. Ontarians, especially those who are low-income, women, or who are otherwise marginalized, are finding it harder to assert their rights and hold violators accountable. Rather than engage on the merits of cases, the tribunal appears to be seeking to dismiss as many as it can, as rapidly as it can.

In fact, Francis Nasca, an Osgoode Hall student who completed a placement at the Human Rights Legal Support Centre last year, undertook a study of the tribunal’s growing reliance on early dismissals.

“From 2009 to 2017, the tribunal would issue 150 to 300 NOIDs annually, and we saw 989 in 2021. The 989 represents 25 per cent of applications received in that year, so the numbers say this is happening on quite a large scale,” Nasca [told the Law Times last summer](#).

The notices were often based on questionable jurisdictional arguments without analysis of the actual claims. In a paper submitted [to the Ontario Bar Association and Tribunals Watch Ontario](#), Nasca also described how their sample study demonstrated that applications based on race, colour, or citizenship-based violations were more likely to receive the notices.

Unnecessary delays and the cost of responding to tribunal requests and notices limits access to justice, said Kumail Karimjee, a Toronto lawyer and mediator working in employment and human rights law.

“The tribunal has lost credibility as an institution given how slowly things move,” he added.

The human rights of Ontarians are at risk if this isn’t fixed, quickly.

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