

Mattila v. Timbercreek Asset Management Inc., 2023 HRTO 431 (CanLII)

Date: 2023-03-24
File number: 2019-37023-I
Citation: Mattila v. Timbercreek Asset Management Inc., 2023 HRTO 431 (CanLII),
<<https://canlii.ca/t/jwdfj>>, retrieved on 2024-01-24



HUMAN RIGHTS TRIBUNAL OF ONTARIO

BETWEEN:

Sharon Mattila

Applicant

-and-

Timbercreek Asset Management Inc.

Respondent

DECISION

Adjudicator: Joseph Tascona
Date: March 24, 2023
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APPEARANCES

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was valid because the Landlord had established it was not able to accommodate the tenant without undue hardship.

ANALYSIS

[9] [Section 45.1](#) of the *Code* states:

The Tribunal may dismiss an application in whole or in part, in accordance with its rules if the Tribunal is of the opinion that another proceeding has appropriately dealt with the substance of the application.

Was There a Proceeding for the Purposes of Section 45.1?

[10] It is well established that a claim determined by the LTB is a “proceeding” for the purposes of [section 45.1](#) of the *Code*. See *Benstead v. Niagara Regional Housing*, [2012 HRTO 1557](#).

Did the Proceeding “Appropriately Deal With” the Substance of the Application?

[11] In dealing with this question, the Tribunal will consider whether the Application arises from the same facts that provided the basis for the other proceeding, whether the substance of the issues raised in each forum was substantially the same, and whether the matter raised was “appropriately dealt with” in the other proceeding. See *Robinson v. Spanish (Town)*, [2009 HRTO 1484](#).

[12] The Tribunal may dismiss an application under section 45.1 even if the other proceeding did not specifically make a finding of a *Code* violation. See *Paterno v. Salvation Army*, [2011 HRTO 2298](#).

[13] In my view, the facts and issues in the LTB proceeding substantially overlap with those which form the basis of the Application. In the Application, the applicant claims that the respondent failed to accommodate her disability and that she was harassed by staff when she spoke out. Similarly, in the LTB proceedings, the applicant alleged that the Landlord (respondent) failed to accommodate the applicant’s disability and that staff harassed her when she complained about this. In my view, the LTB addressed the same allegations and issues as set out in the Application and found the allegations had no merit.

[14] Relitigating and making contrary or inconsistent findings of fact is a situation to be avoided. The applicant is unhappy with the LTB’s decision, but it is not for the Tribunal to comment on whether the LTB made the correct decision. In *Okoduwa v. Husky Injection Molding Systems Ltd.*, [2012 HRTO 443](#), the Tribunal adopted the reasoning in the Supreme Court of Canada decision *British Columbia (Workers’ Compensation Board) v. Figliola*, (“*Figliola*”) [2011 SCC 52](#), at paragraph 25:

[15] The Supreme Court of Canada’s decision in *Figliola* provides guidance as to the interpretation of “appropriately dealt with” as it appears in [section 45.1](#) of the *Code*. The (Supreme Court of Canada in *Figliola* above) makes clear that the Tribunal’s role is not to sit in appeal of other decision-makers in the determination of human rights issues. Nor, is it appropriate for the Tribunal to use section 45.1 as a vehicle for collateral attack on the merits of another decision-making

process; the appropriate route for challenging another decision is through appeal or judicial review routes available in the other decision-making process.

[16] While the LTB did not articulate its findings as a dismissal of allegations of discrimination under the *Code*, I find that it dealt with the same facts and issues as those which form the basis of this Application. As such, I find that the LTB appropriately dealt with the substance of the Application in accordance with [section 45.1](#) of the *Code*.

ORDER

[17] The Application is dismissed.

Dated at Toronto this 24th day of March, 2023.

"Signed by"

Joseph Tascona
Member