Balancing efficiency and fairness: Human Rights Tribunal of Ontario proposes changes to rules of procedure

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The Human Rights Tribunal of Ontario (HRTO) has proposed updates to its rules of procedure to address delays and reduce its backlog of cases. The HRTO frames these proposed changes as aiming to streamline processes, improve efficiencies, and shorten the average lifecycle of cases while ensuring fair and timely resolutions.

Key proposed changes

The HRTO has proposed the following changes:

- Mandatory mediation
- Elimination of case management conference calls
- Elimination of summary hearings
- Elimination of requests to expedite
- Elimination of requests for interim remedies
- Simplification of the process to withdraw an application
- Limits to when requests for orders may be filed and when they will be addressed by the HRTO

The HRTO has also proposed revisions to its rules of procedure to reflect these substantive changes, as well as to clean up and clarify existing processes (for instance, removing the option to fax materials, and clarifying communications by email).

Insight

In proposing these new changes, the HRTO has sought consultation, and BLG has made submissions highlighting both the opportunities and challenges presented.

The result of the proposed changes would be that after mandatory mediation, most matters would proceed to a merits hearing — which is not always appropriate or the best use of the parties' and HRTO's resources. They would also constrain the HRTO's ability to manage cases effectively.

Mandatory mediation

In BLG's submission, we highlighted that the introduction of a mandatory mediation process has great potential to resolve more cases without requiring a hearing. Mediation can help reduce the backlog and provide a less adversarial approach to resolving disputes.

Concerns regarding the elimination of pre-hearing steps

BLG raised concerns regarding the proposed elimination of case management conference calls and summary hearings, as these pre-hearing steps play a critical role in ensuring an efficient and effective legal process. Case management and summary hearings help address both procedural and substantive issues, allowing parties to clarify the HRTO's processes, and resolve matters in a timely manner. Additionally, these steps are instrumental in narrowing the scope of hearings by filtering out meritless applications, such as frivolous claims, time-barred cases, or procedural deficiencies. This allows hearings to focus only on the relevant issues within the HRTO's jurisdiction. Ultimately, maintaining these pre-hearing steps supports efficiency by resolving or narrowing issues early, reducing the complexity and length of merits hearings, and saving valuable time and resources for both the HRTO and the parties involved. They ensure that the HRTO only holds a merits hearing where appropriate, and that the merits hearing only proceeds on those issues that are within the HRTO's jurisdiction. Removing interim steps may have the opposite effect of the stated goal of improving efficiency.

Requests to expedite and interim remedies

In BLG's experience, these interim steps do not usually have an impact on the outcome of a matter. As such, our submissions were neutral on the proposed removal of these interim requests.

Key takeaways

The proposed changes to the HRTO's rules aim to improve efficiency and reduce backlogs, but the removal of key steps may have unintended consequences. While intended to streamline the process, these changes could hinder the HRTO's ability to manage cases effectively, narrow issues early, and ensure that hearings focus on relevant matters. Balancing efficiency with thorough case management will be crucial to achieving the HRTO's goals without compromising the fairness and effectiveness of its proceedings.

These changes will also impact several practice directions, requiring parties to familiarize themselves with the new procedures, practice directions and forms.

The consultation process closed on Nov. 22, 2024. As such, we anticipate the HRTO will likely introduce the changes (whichever ones are approved to proceed) in the coming weeks. The HRTO will develop a report-back and communicate its next steps in early 2025.

Contact us

For more information on these updates to the HRTO's rules of procedure, please reach out to any of the authors or key contacts below, or any lawyer from BLG's Human Rights Group.

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