

CITATION: Henkel v. Human Rights Tribunal of Ontario et al., 2026 ONSC 3056
DIVISIONAL COURT FILE NO.: DC-21-00000576-00
DATE: 20260526

**SUPERIOR COURT OF JUSTICE – ONTARIO
DIVISIONAL COURT**

RE: HEIDI HENKEL, Appellant

AND:

HUMAN RIGHTS TRIBUNAL OF ONTARIO AND RIDEAU CANOE CLUB,
Respondents

BEFORE: ACJ McWatt, Shore, Brownstone JJ.

COUNSEL: *Self Represented*, for the Appellant

Maija-Lisa Robinson, for the Respondent Human Rights Tribunal of Ontario

Mareike Van Nieuwkoop, for the Respondents Rideau Canoe Club

HEARD: May 19, 2026

ENDORSEMENT

[1] Ms. Henkel seeks judicial review of the Human Rights Tribunal decision of March 1, 2021, summarily dismissing her complaints of discrimination by the Rideau Canoe Club for a number of interactions between herself and club leadership between 2016 and 2018 including a claim that a no trespass order was issued against her as a reprisal for her bringing complaints to other sporting organizations. Most of these complaints were found to be untimely and all of them were found to have no reasonable prospect of success. Ms. Henkel requested numerous accommodations throughout the process with the HRTTO to make the hearing accessible for her. Many, but not all, of these requests were granted. Some of those granted included providing a second half-day hearing, allowing Ms. Henkel to take breaks throughout the hearings, allowing her to be accompanied by a communication support person and allowing her to make additional written submissions. She was not, however, granted the right of reply to RCC's response to her additional written submissions. Her request to split the second hearing into two, two-hour hearings was not granted. Nor was she allowed to make further written submissions after the hearing was finally closed.

[2] Ms. Henkel claims that the decision was procedurally unfair because of the failure to accommodate her disability-related needs, and she was not given the opportunity to properly present her case. She also argues that the adjudicator's conduct and decision-making raised a reasonable apprehension of bias, and the decision was unreasonable. She requests the decision to dismiss her claim be quashed and the case be continued to a full merits hearing. In the alternative, she asks that it be remitted to the HRTO for a new preliminary/summary hearing with appropriate accommodation.

[3] The HRTO initially referred the application to a preliminary/summary hearing to determine whether it should be dismissed entirely or in part based on the delay in bringing the application or a finding that it had no prospect of success. Most of the complaints were found to be out of time, except for the reprisal allegation relating to the no trespass order. The HRTO found that, regardless, all the claims had no reasonable prospect of success.

[4] After the application was dismissed in its entirety, Ms. Henkel requested reconsideration from the HRTO. She argued that her post concussion symptoms were not adequately considered and that she was not able to fully present her case due to technical and pandemic issues that prevented her from obtaining or presenting relevant evidence. She also argued that the accommodation she received was insufficient. Finally, she argued that the adjudicator failed to accept her version of events as true or that it misapplied the law relating to discrimination. All these arguments were dismissed in the reconsideration decision.

[5] This application should also be dismissed.

[6] First, the hearing was procedurally fair, and Ms. Henkel's disability related needs were accommodated.

[7] Numerous CADs, notices and reminders were sent to Ms. Henkel reminding her of the deadlines for delivery of documents and notice of witnesses to be called. She was given the opportunity to call witnesses during the preliminary hearing, make submissions, and provide written evidence, but did not. Regardless, witness evidence is not required for summary hearings as Ms. Henkel's allegations are presumed to be true. Therefore, the claim that COVID-19 prevented her from presenting evidence from her healthcare provider witnesses and thus infringed procedural fairness is without merit.

[8] Ms. Henkel was aware of the HRTO's accommodation process as she requested and received numerous accommodations throughout the hearing process. The applicant was granted accommodations, including a second hearing date, time extensions, breaks, additional written submissions, and a communication representative. The tribunal noted that while Ms. Henkel may not have felt like the accommodation was perfect, it was in accordance with her specific requests. There is no evidence that the HRTO failed to adequately accommodate her.

[9] The decision not to record the hearing accords with the HRTO's practice direction. Ms. Henkel could have requested the hearing be recorded, but she did not. There is no basis to suggest that not recording the hearing was a breach of procedural fairness.

[10] Finally, Ms. Henkel's claim that the omission of certain documents from the Record of Proceedings was a breach of procedural fairness arose after the hearing was concluded and the decision was rendered. Even so, this complaint was addressed. The missing documents were added and Ms. Henkel was given an extension of time to address them.

[11] Second, the threshold for finding bias is high and requires substantial, cogent evidence because there is a strong presumption of impartiality. There is no evidence to support Ms. Henkel's allegation of bias. The reasons for the decision reflect a fair and even assessment of the evidence and submissions. The allegations that the adjudicator fabricated or misquoted evidence, preferred the respondent's evidence or selectively referenced testimony to distort its meaning are entirely unsupported by evidence. Ms. Henkel's claim that the adjudicator was closed minded is also unfounded. The fact that not all of Ms. Henkel's evidence was included in the decision does not establish bias.

[12] Ms. Henkel's argument that the decision failed to respond to her arguments or the information she submitted is not sufficient to warrant judicial review. Decisions are not intended to be a fulsome recitation of everything submitted. The adjudicator considered all the evidence and submissions, weighed them, and decided which points to highlight in the decision. This is a discretionary exercise.

[13] Third, the decision was reasonable. The adjudicator found that RCC did not breach her *Code* protected rights. Ms. Henkel never requested the accommodations that she now claims she needed from the boat club. Further, the people who were the source of what she claims was discrimination are not affiliated with RCC. The adjudicator's decision was justified in relation to the facts and the law and reflected a coherent and rational chain of analysis.

[14] The adjudicator was reasonable in dismissing Ms. Henkel's claims for harassment. The adjudicator was entitled to weigh the evidence and find that the grounds raised by Ms. Henkel (namely a smirk) could not amount to a claim of sexual harassment. It was also raised outside the limitations period.

[15] The finding that the claims were outside the one-year limitation period is reasonable and not discriminatory. Except for one incident, the events occurred three years before the claim was raised. The only allegation that was in time was the reprisal allegation for which Ms. Henkel provided no evidence. Since this allegation had no reasonable prospect of success, it could not be used to anchor a series of events to within the limitation period. Regardless, the adjudicator found that it was not a series of events, and the delay was not incurred in good faith. This finding was reasonable and there is no basis to interfere with it.

[16] The Tribunal dismissed Ms. Henkel's complaint because it was out of time and did not raise a serious issue about discrimination on a prohibited ground.

[17] The HRTO is entitled to deference in controlling its process and we are satisfied the summary dismissal decision was reasonable.

[18] The Application is dismissed.

[19] Ms. Henkel made no submissions on costs. The HRTO asks for costs. The Applicant is ordered to pay costs to the HRTO in the all-inclusive amount of \$5,000.

ACJ F.E. McWatt

Justice S. Shore

Justice L. Brownstone

Released: May 26, 2026