



HUMAN RIGHTS TRIBUNAL OF ONTARIO

BETWEEN:

The Regional Municipality of Waterloo Police Services Board

Applicant

-and-

Kelly Donovan

Respondent

-and-

Waterloo Regional Police Association

Intervenor

ANDBETWEEN:

Kelly Donovan

Applicant

-and-

The Regional Municipality of Waterloo Police Services Board and Bryan Larkin

Respondents

CASE ASSESSMENT DIRECTION

Adjudicator: Kelly Barker

Date: April 10, 2026

File Number: 2018-33237-S; 2018-33503-S

[1] On January 15, 2026, the Tribunal issued a Case Assessment Direction (“CAD”) directing the parties to prepare, exchange and file certain documents with the Tribunal within 56 days of the date of the CAD, specifically a witness list, witness statements, case summary and all documents they intended to rely on.

[2] Ms. Donovan and intervenor filed the required documents within the time limit.

[3] On March 12, 2026, the police service sent the Tribunal two witness statements for Application 2018-33503-S. The witness statements were only, each, a few sentences and no documents were referenced.

[4] The January 15, 2026, CAD directed that the witness statements:

It is the Tribunal’s intention that each witness’s witness statement or expert report, as the case may be, will be adopted under oath by the witness instead of providing oral evidence-in-chief. The witness will then be cross-examined under oath on their witness statement or expert report by the party opposite. **For this reason, each witness statement and expert report (if any) must set out in detail all of the evidence of the witness and reference all documents the witness intends to rely on.**

[5] The two witness statements filed by the respondent do not include all the evidence of the witnesses but rather contain generally what the witnesses will say through oral testimony. Moreover, no documents are referenced in any witness statements.

[6] With Application, 2018-33237-S, the police service has advised it does not intend to call witnesses but will rely on cross examination and filing documents. Although the Tribunal will enter documents, one by one, as requested during cross examination, the Tribunal will not enter entire books of documents as evidence in a vacuum. The police service may enter these documents through its own witness statements (filed in advance) or, individually, through cross examination.

[7] The parties were warned that if the parties do not file the information described above by the deadline(s) noted, the Tribunal may deem them to have abandoned the Application and dismiss the Application in writing for that reason, without further notice to

the parties. In the alternative, the Tribunal may deem the parties to have accepted all the allegations in the Application, deem the parties to have waived all rights with respect to further notice or participation in the proceeding, proceed to deal with the Application without further notice to them, and/or decide the matter based only on the material before the Tribunal.

[8] Given that the police service did partially comply with the previous CAD, it would be unfair to apply these consequences without a final opportunity to fully comply with the CAD.

[9] The Divisional Court has held on numerous occasions (such as in *Sui v. Liang*, 2022 ONSC 5623) that the court's case management directions are not suggestions and they must be followed whether the parties agree with them or not.

[10] These statements apply equally to the directions of the Tribunal.

[11] Accordingly, the police service is directed to deliver to the other parties and file with Tribunal their detailed witness statements within 14 days of this CAD for Application 2018-33503-S. For 2018-33237-S, the police service is permitted to file witness statement(s) that reference the documents that they intend to rely on, if they wish.

[12] If the police service does not file the information described above by the deadline(s) noted, for the Tribunal may deem the police service to have accepted all the allegations in the Application, deem the police service to have waived all rights with respect to further notice or participation in the proceeding, proceed to deal with the Application without further notice to them, and/or decide the matter based only on the material before the Tribunal.

Dated at Toronto, this 10th day of April, 2026.



Kelly Barker
Member