

# LEARNERS

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FILE NUMBERS 133308-00001

**SENT BY E-MAIL**

Registrar  
Human Rights Tribunal of Ontario  
15 Grosvenor Street, Ground Floor  
Toronto ON M7A 2G6

Dear Registrar:

**Re: Regional Municipality of Waterloo Police Services Board v. Kelly Donovan (HRT0 File No. 2018-33237-S)**  
**Kelly Donovan v. The Regional Municipality of Waterloo Police Services Board and Bryan Larkin (HRT0 File No. 2018-33503-S)**

We are counsel for the applicant, Regional Municipality of Waterloo Police Services Board (the “Board”) in HRT0 File No. 2018-33237-S, and for the respondents, the Board and Bryan Larkin (“Larkin”) in HRT0 File No. 2018-33503-S. We write further to the Tribunal’s Case Assessment Direction dated November 19, 2025 to provide our submissions in accordance with paragraph 7 thereof.

First, to clarify regarding paragraph 5 of the Case Assessment Direction:

- (a) the fourth bullet in paragraph 5 is not correct. What the Board filed on January 13, 2023 was its Form 11 Response to Ms. Donovan’s Request for a Summary Hearing. After its Form 10 RFOP filed on December 23, 2022, the Board never filed any further Form 10 RFOP seeking to add new allegations;
- (b) paragraph 5 does not include the Board’s Form 19 filed on January 24, 2023 in response to Ms. Donovan’s RFOP seeking to amend her application;
- (c) the last bullet in paragraph 5 indicates that, on April 11, 2023, Ms. Donovan filed a Form 11 in response to the Board’s request to amend its application. The Board cannot locate a record of ever receiving this.

In regard to the Tribunal’s request in paragraph 7 for any correction or addition to the “list of outstanding issues”, the Board advises as follows:

## 1. Removal of the individual respondent, Larkin

Ms. Donovan's allegation of contravention of settlement occurring on December 21, 2017, when the individual respondent Larkin's affidavit was filed in court, was previously dismissed as untimely: *The Regional Municipality of Waterloo Police Services Board v. Donovan*, [2022 HRTO 1409](#), [para. 63\(c\)](#). Ms. Donovan's request for reconsideration was denied: *Regional Municipality of Waterloo Police Services Board v. Donovan*, [2023 HRTO 276](#).

There is only one remaining allegation of contravention in Ms. Donovan's application: that the June 8, 2017 Resignation Agreement (the "Agreement") was breached in January 2018 when "the respondent Board submitted an appeal" of her WSIB claim (paragraph 35 of Ms. Donovan's amended Schedule "A" filed on December 23, 2022).

The Board's position, in accordance with the Tribunal's [Practice Direction on Naming Respondents](#), is that the inclusion of Larkin as an individual respondent unnecessarily complicates this matter. The prior allegation related to his affidavit was dismissed, and there is no need for him to be involved personally in regard to an allegation about an appeal filed by "the respondent Board". There is no suggestion of separate conduct by Larkin personally, nor that he had any involvement outside the scope of his employment and duties as the Chief of Police at the relevant time. There is no issue as to the organizational respondent's vicarious liability for the actions of Larkin, or regarding its ability to respond to or remedy the alleged contravention.

Accordingly, Larkin should be removed pursuant to Rule 1.7(b), leaving the Board as the appropriate organizational respondent. This is consistent with numerous recent decisions of the Tribunal removing individual respondents in circumstances of this nature.<sup>1</sup>

If necessary, the Board requests leave to file an RFOP on this issue.

## 2. Streamlining the issues at the hearing

The Board, on its application, intends to restrict its allegations to the ones it views as most serious. This is without prejudice to its position that Ms. Donovan has contravened the settlement in all aspects that have been alleged to date; however, for purposes of the hearing, the Board will be seeking a determination only with respect to Ms. Donovan's various assertions to the effect of having been "constructively dismissed" and/or otherwise improperly forced out of / eliminated from her employment, and referencing the Agreement and/or its terms.

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<sup>1</sup> *Drouillard v. Greater Essex County District School Board*, [2025 HRTO 171](#); *Tabacoff-Martino v. Ialve Corp.*, [2025 HRTO 375](#); *Hanchuck v. Thunder Bay (Police Service Board)*, [2025 HRTO 1483](#); *Grant-Bobb v. London Catholic District School Board*, [2025 HRTO 1756](#)

**3. Additional materials to be filed**

At this time the only additional materials the Board intends to file are copies of the relevant excerpts from Ms. Donovan's book referred to in paragraph 74 of Schedule "A" to the Board's Form 10 RFOP filed on December 23, 2022, including from the subsequent third edition of that same book.

**4. Settlement privilege issue**

Given Ms. Donovan's submissions filed to date it is anticipated that she may attempt, at the hearing, to tender evidence related to negotiations leading up to the execution of the Agreement. The Board's position is that such evidence is irrelevant to the issues before the Tribunal, and also inadmissible because it is subject to settlement privilege. This issue will need to be dealt with prior to, or at the outset of, the hearing, so that a preliminary ruling can be made.

Yours truly,



Stuart Zacharias

SAZ/

cc: Kelly Donovan, respondent/applicant

C. Kirk Boggs, Learners LLP