

HUMAN RIGHTS TRIBUNAL OF ONTARIO

B E T W E E N :

WATERLOO POLICE SERVICES BOARD

Applicant

-and-

KELLY DONOVAN

Respondent

RESPONDENT'S CASE SUMMARY

1. The applicant alleges that by making public statements orally, and in writing, and by operating her business, the respondent committed a series of contraventions of a human rights settlement from July 2017, to June, 2018.
2. The applicant seeks significant damages and retraction of public statements, among other things.

Procedural history:

3. The respondent objected to the legality of the application in her Form 19 on July 10, 2018. These objections have not been addressed by the tribunal.
4. In 2019, [Ontario Superior Court ruled](#) it had no jurisdiction to dismiss the application pursuant to *Courts of Justice Act* section 137.1.
5. The tribunal published an Interim Decision in September, 2019, which determined the future of the proceeding.
6. In 2020, the respondent filed a Request for Order During Proceedings to dismiss the application.
7. The tribunal held a preliminary hearing in 2022 which did not address the respondent's request to dismiss the application.
8. In 2022, the applicant filed to amend the application.

9. In 2023, the respondent requested a summary hearing, pursuant to Rule 19A. This request was not addressed by the tribunal.
10. In 2026, the amendment was denied.

Issues to be determined:

11. Should the application be dismissed?
 - a. The application itself violates the Resignation Agreement;
 - b. The respondent alleged in 2018 (respondent's **Document 11**) that the application:
 - i. Is an abuse of process;
 - ii. Is untimely;
 - iii. Was commenced in bad faith as retaliation for having filed her civil claim.
 - c. The respondent alleged in 2020 (respondent's **Document 29**) that the application:
 - i. Was commenced in bad faith;
 - ii. Is an abuse of process;
 - iii. Had no prospect of success;
 - iv. Was outside the jurisdiction of the tribunal.
 - d. The respondent alleged in 2023 (respondent's **Document 36**) that the application:
 - i. Failed to allege a breach of the *Code*, as the application is essentially a claim for defamation;
 - ii. Was commenced in bad faith;
 - iii. Was an abuse of process.
 - e. Does the application allege a breach of the *Code*?
 - i. The resignation agreement was not a human rights settlement;
 - ii. Respondent's **Document 28** states at paragraph 4:
 - "The WRPSB is not alleging that Ms. Donovan breached a general non-disclosure clause..."
 - "Ms. Donovan has continually engaged in conduct contrary to the Resignation Agreement..."
 - "Ms. Donovan's public complaints as set out in Part IV of Schedule "A" to the Application undermine the clear and fundamental purpose of the Resignation Agreement..."

- f. The respondent provided evidence at respondent's **Document 4, Document 22** and **Document 36** to prove that the purpose of the resignation agreement was not to prevent her from speaking about her experiences working for the applicant.
12. If the application is dismissed, does the conduct of the applicant warrant sanction?
13. If the application is not dismissed, the following must be determined:
- a. Are the applicant's documents at **Tabs 15 – 41**, and **Tabs D – M** relevant since the amendment was denied¹?
 - b. Is the applicant proceeding with all original allegations, or only those outlined in their December 11, 2025, submission? (Based on the December 11, 2025, submission, only allegations at paras. 35, 39, 45, 46, 48 and 51 h) remain);
 - c. Is the resignation agreement a human rights settlement?
 - d. Do the respondent's actions amount to a contravention of settlement?
14. Should the Waterloo Regional Police Association remain Intervenor?
- g. A labour arbitrator determined that the essential character of this dispute did not arise from the collective agreement (**Authority 24**);
 - h. The respondent is no longer seeking re-instatement;
 - i. There is no reason for the WRPA to act as intervenor.

Outstanding procedural or jurisdictional issue or any outstanding request:

15. There are two outstanding requests to dismiss the application (**Document 11 & Document 29**);
16. The respondent alleged in 2023 (**Document 36**, paragraph 76) that the tribunal did not have jurisdiction over the application, which is essentially a civil claim for defamation, not a contravention of settlement;
17. Admissibility of **Document 4** (including the audio clip), and **Document 36** (Exhibit 20 – which is identical to **Document 4**), is to be decided. These files are covered under settlement privilege, but speak directly to the parties' intent and purpose of the resignation agreement – which are central to the applicant's assertions listed above at 11.e. The respondent provided the tribunal with the labour arbitrator's ruling at respondent's **Document 41**.

¹ *The Regional Municipality of Waterloo Police Services Board v. Donovan*, [2026 HRTO 83 \(CanLII\)](#).