

This submission is the result of the CAD dated November 19, 2025.

For the purposes of this submission:

Applicant: The Regional Municipality of Waterloo Police Services Board

Respondent: Kelly Donovan

Applications: 2018-33237-S & 2018-33503-S

Applicant's submissions are as follows:

CORRECTIONS:

1. Paragraph 5 in the CAD is incorrect. The applicant did not file a Form 10 Request for Order During Proceedings (RFOP) to amend their application to add new allegations on January 13, 2023. The applicant's January 13, 2023, submission was an objection to the respondent's request for summary hearing. The respondent's request for summary hearing has not been addressed at all by the Tribunal.
2. In addition, the respondent did not file any submission at all on April 11, 2023.

ADDITIONS:

3. The accurate additions to the list of unaddressed issues are as follows:
 - a. July 10, 2018 – Respondent's Form 19, Response to an Application for Contravention of Settlement, has not been addressed by the Tribunal;
 - b. April 15, 2020 – Respondent's Form 10, Request for Order During Proceedings (RFOP) to dismiss the application;
 - c. December 20, 2022 – Respondent's Form 26, Request for Summary Hearing;
 - d. January 11, 2023 – Applicant's Form 11 in response to the respondent's Request for Summary Hearing.
4. In addition to the submissions above, evidence to support the respondent's requests in 3.a and 3.b was supplied to the Tribunal on the following dates:
 - a. May 3, 2019 – Specifically Volume I, Schedule A, paras. 120 – 144;
 - b. July 4, 2019 – Email containing evidence of retaliation;
 - c. November 7, 2019 – Reply submissions of the applicant, paras. 3 – 4;
 - d. January 12, 2023 – Respondent's Form 11, already indicated in para. 5 of the CAD.

LEGAL ISSUES:

5. Entertaining the RFOP submissions as to amendments, for an application the respondent has alleged since 2018 is an abuse of process and has no reasonable prospect of success, is procedurally unfair. You cannot put the horse before the cart.
6. The mere bringing of their application on June 28, 2018, breaches para. 11 of the resignation agreement, yet the Tribunal has permitted it to proceed for 7 years without addressing the respondent's multiple requests to dismiss, which has already significantly prejudiced and harmed the respondent.
7. It is the respondent's respectful submission that prior to addressing any requests to amend the applicant's application, the Interim Decision should first and foremost address the respondent's preliminary objections to the initial application filed June 28, 2018; proceeding any other way would not be fair, just or expeditious.
8. The applicant has not provided any evidence to support their multiple claims of the following breaches of the resignation agreement:
 - a. By speaking publicly, posting online, publishing statements in a book, or starting a business that is the same as filing a complaint against them;
 - b. The inherent purpose of the resignation agreement was to prevent the respondent from speaking publicly, posting online, publishing statements in a book or starting a business;
9. On the contrary, the respondent has provided the Tribunal with ample evidence to show that those behaviours do not breach the resignation agreement, and the true purpose of the agreement was to allow me to speak. Despite all of this, the Tribunal has chosen not to address these preliminary objections.
10. Put plainly, the applicant has told the Tribunal *what* the respondent has done that they allege violate the resignation agreement, but have not provided any arguments or evidence to show *how* these actions violate the agreement. The respondent has shown how these actions are not violations of the agreement.
11. Application 2018-33237-S does not allege a violation of the *Code*, and allowing any amendments ahead of a hearing would be a miscarriage of justice and needlessly prolong the proceeding.¹

¹ *Wozenilek v. 7-Eleven Canada*, [2010 HRTO 407 \(CanLII\)](#), para. 29.

12. The only procedurally fair manner to proceed at this point in time, is to consider the preliminary objections to application 2018-33237-S prior to any RFOP to amend the application.
13. The principle that an application can be dismissed because it has no reasonable prospect of success is not limited to the initial early stage of the Tribunal's process, and can be heard as a preliminary issue at the outset of a hearing of the merits of the application.²
14. Of course, the Tribunal can proceed in the manner it chooses. However, it would be patently unfair to require the parties to participate in a lengthy hearing on the merits of application, if the application can be disposed of at the outset, or preliminarily, for not alleging a breach of the *Code*.
15. It is concerning that the above conclusions, in para. 5 of the CAD, were drawn by the Adjudicator after a full review of the file. The Record of Proceedings supplied by the Tribunal in Judicial Review 699/22 also does not show either of those two submissions. It is unclear how the Adjudicator came to the conclusions they did.
16. It is vitally important that the details of this complicated matter be accurately reflected in the decisions, or this matter will become even more of a miscarriage of justice than it already is. The confusion around submissions, at para. 5 of the CAD, indicates a lack of attention paid to the details of this matter, which creates a fairness issue.
17. The respondent's other concern is that the Adjudicator is deciding the existing RFOP submissions as to amendments of an application she has alleged is an abuse of process, was filed in bad faith and has no reasonable prospect of success. The legitimacy of the application should be decided prior to allowing amendments of it.
18. The respondent has filed a new lawsuit, CV-24-00005966-0000, alleging abuse of process, (among other things), against the applicant. The decisions made by the Tribunal will become extremely relevant in court filings and must accurately reflect the facts of the case.

MISCARRIAGE OF JUSTICE:

19. The mere bringing of application 2018-33237-S is a breach of paragraph 11 of the resignation agreement by the applicant. In allowing the application to proceed for over 7 years, the Tribunal has permitted a miscarriage of justice, and with a tremendous delay, no

² *Kline v. Ontario (Community Safety and Correctional Services)*, [2013 HRTO 230 \(CanLII\)](#), para. 18.

less. The respondent continues to face this miscarriage of justice as long as the Tribunal allows the application to survive.

REQUEST:

20. The respondent requests the following:

- a. Corrections be made to the five outstanding issues to reflect only accurate submissions in this matter; including the deletions and additions outlined in paras. 1-4.
- b. The respondent respectfully requests that the preliminary objections to application 2018-33237-S be decided ahead of any decision on amendments or merits, whether that is in writing ahead of a hearing, or at the start of a hearing. Addressing amendments ahead of legitimacy objections (including bad faith, failure to allege a breach of the *Code*) would be procedurally unfair.
- c. The respondent has already supplied the Tribunal with all of the evidence to come to a final conclusion on the matter, while the applicant has not supplied any evidence to the Tribunal which suggests their case has any merit. If necessary, the respondent can provide the Tribunal with an itemized list of the evidence contained in the past 7 years of submissions, for ease of reference, but this will take more than 5 pages.
- d. If the Tribunal insists on only addressing the respondent's objections at the start of a hearing for a final determination of the issues, then she respectfully requests that no decision on amendment be made ahead of the hearing, and the respondent's objections be dealt with at the very start of the hearing since the respondent's objections may fully dispose of all issues in application 2018-33237-S.
- e. If the Tribunal decides to hear all outstanding issues at a hearing, then the respondent requests that this hearing be scheduled expeditiously so as to not delay these matters any longer.

All of which is respectfully submitted by the applicant on December 10, 2025,

A handwritten signature in black ink, appearing to be 'Kelly Donovan', written over a horizontal line.

Kelly Donovan

