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GTA

The Human Rights Tribunal of Ontario is about to decide if unionized employees have the right to file claims. Here's why lawyers and advocates are worried

"I think limiting a worker's options — full stop — is troublesome," lawyer Samantha Peters told the Star.

By **Angelyn Francis** Equity and Inequality Reporter

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The Human Rights Tribunal of Ontario (HRTO) has started a process that could mean unionized employees would lose access to the tribunal.

The HRTO will be looking at two separate cases to figure out if, given a recent supreme court decision, they can move forward in the tribunal or if they should be dismissed, according to a copy of the case assessment obtained by the Star.

Advocates and lawyers worry dismissals could have a cascading effect on other cases that could lead to big losses felt largely by women, people who are Black, Indigenous or racialized, LGBTQ, and other marginalized groups.

These workers tend to have trouble advancing claims within their unions if leaders aren't experienced in the matters, said Samantha Peters, founder of Black Femme Legal.

"I think limiting a worker's options — full stop — is troublesome, particularly when the workers' identities exist at the margins," they told the Star.

Peters added that for some people the HRTO is important because it puts their dispute — and a decision about it — on the public record.

For about two decades in Ontario there has been "concurrent jurisdiction" which means an issue could be dealt with through either a union-employer grievance or at the HRTO.

But at the end of 2021, the Supreme Court of Canada's decision in [Northern Regional Health Authority v. Horrocks](#) determined that in Manitoba, matters concerning a unionized employee could exclusively be handled internally through a labour arbitrator as opposed to the Human Rights Commission.

In Ontario, one of the cases being assessed involves [sexual harassment allegations within Peel police](#). It has been put forth by three women represented by lawyer Gary Bennett.

Bennett told the Star that, generally, when someone is in a male-dominated profession, the union is also male dominated. So, for women putting complaints forward, there's a chance they may not get the same treatment as others.

In this case, his clients have felt supported by their union, but for many others, "they're out of luck. That's the danger with taking away this option," Bennett said.

Meanwhile, the Ontario Federation of Labour (OFL) is "deeply concerned" by the quick timeline for stakeholders to get involved — especially given that it could impact 27 per cent of Ontario's workforce.

Those who wish to intervene and voice their concerns, only have until March 3 to do so, one week after the assessment was dated. The Star has reached out to the HRTO for comment about the short timeline and is waiting for a response.

It's essential that both unions and the tribunal remain options for workers, said Ron Franklin, an employment lawyer.

"(There is a) notion that unionized employees are privileged employees but the reality is, if a unionized employee doesn't have the support of their union, they are in an extremely precarious position," Franklin told the Star.

Unions have the right to decide which cases to grieve, decisions that can be impacted by resources and how well reps understand the issue at hand, he and others said.

"At least that employee can say, 'You know what, I understand that you think my case is going to be hard to win. I'm going to go to the Human Rights Tribunal and pursue it that way,'" Franklin said.



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