

Alberta Human Rights Commission

Bylaws

Pursuant to section 17(1) of the

Alberta Human Rights Act

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Definitions

1 In these Bylaws,

- (a) "Act" means the *Alberta Human Rights Act*
- (b) "Chief of the Commission and Tribunals" means the member of the Commission designated by the Lieutenant Governor in Council as Chief of the Commission and Tribunals;
- (c) "Commission" means the Alberta Human Rights Commission;
- (d) "complainant" means the person who makes a complaint;
- (e) "complaint" means a complaint made under section 2 of these Bylaws;
- (f) "conciliator" means the person appointed to conciliate a complaint;
- (g) "director" means the director of the Commission;
- (h) "investigator" means the person appointed to investigate a complaint;
- (i) "legal counsel" means the legal counsel employed or retained for the purposes of the Act;
- (j) "tribunal" means a human rights tribunal appointed by the Chief of the Commission and Tribunals under section 27(1) of the Act;
- (k) "parties to a proceeding" means the parties to a proceeding referred to in section 28 of the Act;
- (l) "parties to the complaint" means:
 - (i) the complainant,
 - (ii) any person named in the complaint who is alleged to have been dealt with contrary to the Act, if different from the complainant, and
 - (iii) the respondent;
- (m) "regional director" means the director of the Commission's northern or southern region;
- (n) "respondent" means the person against whom a complaint is made;
- (o) "response" means a response to a complaint;

(p) “submission” means a written submission to a tribunal.

PART I - The Complaint Process

Complaint

- 2(1)** A person may make a complaint to the Commission
- (a) in person, or
 - (b) by filing with the Commission a complaint in writing.
- 2(2)** Where a complaint is made in writing, the complaint must contain:
- (a) the name of the complainant,
 - (b) the name of any person who is alleged to have been dealt with contrary to the Act,
 - (c) the name of the respondent,
 - (d) the location and date of the alleged contravention,
 - (e) the nature of the alleged contravention,
 - (f) the section of the Act alleged to have been contravened,
 - (g) an assertion that the information contained in the complaint is true to the best of the complainant's knowledge and belief, and
 - (h) the signature of the complainant.
- 2(3)** A complainant may use the complaint form provided by the Commission.
- 2(4)** The Commission may assist a person in making a complaint.
- 2(5)** Where a complaint is made in person, the Commission shall make a written record of the complaint and ensure that the complainant signs the record or verbally acknowledges that the information contained in the record is true to the best of the complainant's knowledge and belief.
- 2(6)** A complainant shall provide the Commission with a mailing address where the complainant can be contacted.

Respondent's Reply to Complaint

- 3(1)** The respondent shall, not later than 21 days after being served with a copy of the complaint under section 21(3) of the Act, respond to the complaint
- (a) in person before the Commission, or
 - (b) by filing with the Commission a response in writing.
- 3(2)** Where a response is made in writing, the response must contain:
- (a) the full legal name of the respondent and a mailing address where the respondent can be contacted,
 - (b) if the respondent is a corporation or other entity, the name, business address and telephone number of the contact person of the corporation or other entity,
 - (c) a detailed response to the allegations contained in the complaint if the respondent believes the complaint is not justified, and
 - (d) copies of any documents that the respondent believes may be relevant to the complaint.
- 3(3)** A respondent may use the response form provided by the Commission.
- 3(4)** The Commission may assist a person in preparing a response.
- 3(5)** Where a response is made in person, the Commission shall make a written record of the response.
- 3(6)** If a respondent fails to respond to a complaint pursuant to sub-section (1), the director may appoint an investigator to investigate the complaint.

Conciliation

- 4(1)** The duty of a conciliator is to attempt to effect a settlement between the parties to a complaint.
- 4(2)** Where a conciliator has been appointed to conciliate a complaint, the conciliator shall report on the outcome of the conciliation to the regional director.

Settlement of a Complaint

- 5 Where a complaint is settled, the Commission shall cause the terms of the settlement to be set out in an agreement and signed by the parties to the complaint or to be confirmed in writing to the parties to the complaint.

Investigation

- 6(1) The duty of an investigator is to establish the facts and make recommendations to the regional director as to whether or not there is merit to a complaint.
- 6(2) Where an investigator has been appointed to investigate a complaint, the investigator shall report on the investigation to the regional director upon completion of the investigation.

Withdrawal of Complaint

- 7 A complainant may withdraw a complaint at any time prior to a tribunal hearing by giving notice to the Commission either in person or in writing.

Appeals to Chief of the Commission and Tribunals

- 8(1) A notice referred to in section 26(1) of the Act must contain reasons why the dismissal or discontinuance should be reviewed and may contain such further information that the complainant believes may be relevant to the complaint.
- 8(2) The respondent may, not later than 21 days after being served with a copy of a notice referred to in section 26(1) of the Act, file with the Commission and serve on the complainant such further information that the respondent believes may be relevant to the complaint.

PART II - The Human Rights Tribunal Process

Carriage before Tribunal

- 9(1) Where the Chief of the Commission and Tribunals or another member of the Commission decides under section 26 of the Act that the complaint should not have been dismissed or the proposed settlement was not fair and reasonable, the complainant shall, within 30 days of being served with the decision of the Chief of the Commission and Tribunals or the decision of another member of the Commission file with the Commission a written notice stating

- (a) the intention of taking carriage of the complaint before the tribunal,
 - (b) the order or remedy requested,
 - (c) a request for a tribunal hearing date and time, and
 - (d) the estimated time that the complainant needs before the tribunal.
- 9(2)** Failure to produce the notice referred to in subsection (1) shall be taken as notice of withdrawal of the complaint.
- 9(3)** The Commission shall serve a copy of the notice referred to in subsection (1) on the other parties to the complaint.

Report to Chief of the Commission and Tribunals and Referral to Tribunal

- 10(1)** Where the director reports to the Chief of the Commission and Tribunals under section 22(1)(c) of the Act that the parties to a complaint are unable to settle the complaint, the director's report shall contain:
- (a) a copy of the complaint,
 - (b) a copy of the response where available,
 - (c) a copy of the investigator's report or, alternatively, an outline of the alleged facts and contravention of the Act,
 - (d) the order or remedy requested by the director,
 - (e) a request for a tribunal hearing, date and location,
 - (f) any preliminary matters, including any questions of jurisdiction, and
 - (g) such other information as may be appropriate.
- 10(2)** The director shall serve a copy of the director's report referred to in subsection (1) on the parties to the complaint.

Submissions to Tribunal

- 11(1)** The party with carriage of a matter shall provide the Commission with any documents or evidentiary matters upon which they intend to rely at the hearing for distribution to the party opposite at least 21 days prior to the hearing. The respondent shall provide responding documentation to the Commission for distribution to the party opposite at least 14 days prior to the hearing.
- 11(2)** The admission of the evidence shall be determined by the tribunal at the hearing.
- 11(3)** A submission shall state the nature of the order which is sought from the tribunal and may in addition, include:
- (a) an acknowledgment of any agreed upon facts,
 - (b) written arguments covering legal points and authorities,
 - (c) affidavit evidence,
 - (d) any documents or exhibits,
 - (e) the names of the witnesses the party intends to call,
 - (f) the estimated time that the party needs before the tribunal, and
 - (g) any preliminary matters that the party intends to raise, including any questions of jurisdiction.

Notice of Hearing and Appointment of Tribunal Chair

- 12(1)** The Chief of the Commission and Tribunals shall, not later than 10 days before the date of a tribunal hearing, serve on the parties to a proceeding a notice confirming the date, time and place of the hearing, and the proposed allotted time to be given to each party to speak before the tribunal.
- 12(2)** The Chief of the Commission and Tribunals may appoint one member of the tribunal to chair the tribunal.

Alternative Dispute Resolution

- 13** The director may request legal counsel to contact the parties to a proceeding about alternative dispute resolution prior to a tribunal hearing.

Preliminary Matters

- 14** Where there are preliminary matters to be determined before a tribunal hearing, the chair of the tribunal may call the parties to the proceeding together to resolve the matters before the hearing on the merits of the complaint occurs.

Witnesses

- 15(1)** Witnesses before a tribunal may

- (a) be excluded from the hearing room by the chair of the tribunal until called upon to give evidence,
- (b) be questioned and cross examined by the parties to the proceeding, and
- (c) be asked questions by members of the tribunal.

- 15(2)** The Commission may provide a witness with conduct money.

Representation at Hearing

- 16** In addition to being represented by counsel, the parties to a proceeding are entitled to appear in person or by an authorized agent.

Oath or Affirmation

- 17** Persons giving evidence before a tribunal shall give the evidence under oath or by affirmation.

Role of Parties before Tribunal

- 18** A tribunal may permit each party to the proceeding:

- (a) to make a brief opening statement;
- (b) to question and cross examine witnesses;
- (c) to speak to the documents and exhibits;
- (d) to provide a closing argument.

Tribunal Decision

- 19** Within 60 days of the conclusion of the hearing, the chair of the tribunal shall serve on the parties to the proceeding:
- (a) a copy of the tribunal's decision, or
 - (b) a statement of when the tribunal's decision will be rendered if not yet reached.

Part III - General

Change of Time Period

- 20** The Chief of the Commission and Tribunals or the director may shorten any time period or may increase any time period in these bylaws.

Submitted by

[Original signed by]

Honourable D. Blair Mason Q.C.
Chief of the Commission and Tribunals

September 25, 2009

Date

Approved by

[Original signed by]

Honourable Lindsay Blakett
Minister

September 25, 2009

Date