

Guide to intervening on motions before the Canadian Human Rights Tribunal



Introduction

This guide provides general information for those wishing to intervene on motions filed before the Canadian Human Rights Tribunal (Tribunal). It is for information only and is not intended to be legal advice. It is strongly recommended that those interested in or those planning to seek leave to intervene before the Tribunal obtain legal advice. More information about the Tribunal process can be obtained directly from the Tribunal here: www.chrt-tcdp.gc.ca/resources/guide-to-understanding-the-chrt-en.html

General Information

What section of the Canadian Human Rights Act applies to interested parties? Section 50 of the Canadian Human Rights Act applies as well as section 8 (1) of the Canadian Human Rights Tribunal Rules of Procedure.

What is the purpose of interested party status? It is a mechanism for parties outside of a current Tribunal case to participate in the motion, who have expertise and add a different perspective to the positions of the other parties and can assist the Tribunal in making a decision.

Who can apply to intervene? Individuals, organizations, or governments with expertise, a direct interest in the proceedings and whose views are different than those of the other parties.

How do you apply to intervene? Generally, you must file a Notice of Motion requesting an order to be granted interested party status along with an accompanying affidavit supporting the motion and the relief sought. The description of the relief should detail

the scope of the requested interested party status. The Notice of Motion and Affidavit must be served on all the existing parties to the Tribunal case and then filed with the Tribunal.

When do you apply to intervene? It should be done as soon as possible after an existing party files a motion and the applicant should try and get the other parties' consent if possible.

What criteria does the Tribunal use to determine interested party requests? The Tribunal is the Master of its own House, meaning it has wide discretion on procedure including the granting of interested party status. Every request will be judged based on the circumstances of the case. However, there are some general guidelines that the Tribunal has relied on in the past:

- Will the applicant's participation assist the Tribunal?
- Will the applicant's involvement add to the positions of the existing parties?
- Will the applicant be affected by the motion brought by the existing parties?
- Will granting the applicant's motion affect the Tribunal's obligation to conduct a proceeding expeditiously and informally within the CHRT Rules of Procedure and Natural Justice?

What does the Tribunal consider when determining whether an applicant will assist the Tribunal?

- The factual and legal questions the Tribunal must determine in the motion brought by the existing parties;
- The adequacy of evidence and perspectives before the Tribunal;
- The procedural history of the case;

- d. The impact of the proceedings on the applicant, the existing parties and who they represent;
- e. The nature of the issue;
- f. The timing of the application for interested party status;
- g. The positive and negative impacts on the Tribunal's role in determining an issue;
- h. The public interest implications.

Do applicants who want to intervene need a lawyer? It is not necessary but is advisable.

Are legal costs covered? Generally no, as the Supreme Court of Canada has ruled that legal costs for parties before the Tribunal are not generally covered and legal costs awards will not be granted. Therefore, an applicant who seeks leave to intervene cannot recover legal costs from the other parties and legal costs cannot be ordered against them. However, there are other times that costs may be ordered by the Tribunal and it is important to get legal advice on this issue before proceeding to the Tribunal.

How are interested party applicants advised of the Tribunal's decision? The Tribunal will issue an order granting, granting in part, or denying the application to intervene.

Can I just send a letter and/or materials to the Tribunal and have them consider it without applying for interested party status? No, the Tribunal must receive materials from parties with standing to consider them in determining a motion.

How do I contact the Tribunal?

Registry Officer – Canadian Human Rights Tribunal
Administrative Tribunals Support Service of Canada /
Government of Canada
240 Sparks Street, 6th floor West, Ottawa ON K1A 1J4
registry.office@chrt-tcdp.gc.ca / Tel: 613-878-8802 /
Facsimile: 613-995-3484