



HUMAN RIGHTS TRIBUNAL OF ONTARIO

BETWEEN:

Kathleen Gillis

Applicant

-and-

**City of Greater Sudbury, Michael Gringorten, Nick Benkovich, Karen Matthies,
and Kevin Fowke**

Respondent

INTERIM DECISION

Adjudicator: Leslie Reaume
Date: October 15, 2012
File Number: 2012-11792-I
Citation: 2012 HRTO 1956
Indexed as: **Gillis v. Greater Sudbury (City)**

WRITTEN SUBMISSIONS

City of Greater Sudbury, Michael)	
Gringorten, Nick Benkovich, Karen)	Mireille Khoraych,
Matthies, and Kevin Fowke, Respondents)	Representative
)	

INTRODUCTION

[1] This is an Application filed under section 34 of Part IV of the *Human Rights Code*, R.S.O. 1990, c. H.19, as amended (the “Code”). This Interim Decision deals with the issue of whether the Application should be deferred pending the completion of a related grievance proceeding.

[2] On July 23, 2012, the Tribunal sent a Notice of Intent to Defer to the parties indicating that the Tribunal had determined that it might be appropriate to defer consideration of the Application pending the resolution of a grievance dealing with the subject-matter of the Application. The Tribunal directed the parties to deliver and file any written submissions which they wished to make in respect of the deferral issue within 30 days of the date of the Notice of Intent to Defer.

[3] Only the respondent filed submissions in relation to the Notice. The respondent indicates that a grievance is on-going which is based on the subject-matter of the Application. There is no indication that the grievance is not being actively pursued.

[4] The Tribunal may defer consideration of an Application on such terms as it may determine, on its own initiative or at the request of any party (Rule 14.1). Deferral of an Application seeks to ensure that proceedings dealing with the same facts or issues do not run concurrently, thereby raising the possibility of inconsistent decisions on facts or law. The Tribunal will generally defer an Application where there is an ongoing grievance under a collective agreement based on the same facts and issues.

[5] Some, if not all, of the facts and issues raised in this Application are part of a grievance and arbitration process that is still in progress. Since the issues in the Application and the grievances overlap significantly, proceeding with the Application at the Tribunal could very possibly lead to inconsistent decisions on the facts and/or legal issues raised in the Application and the grievance. The primary purpose of deferring an Application is to avoid such potential inconsistency. I find that, in all of the circumstances, deferring the Application is appropriate.

[6] The parties' attention is drawn to Rules 14.3 and 14.4 of the Tribunal's Rules of Procedure, which address how the Application may be brought back on before the Tribunal, following conclusion of the grievance and arbitration procedure. The Rules of Procedure are available on the Tribunal's website, www.hrto.ca under "New Applications".

Dated at Toronto, this 15th day of October, 2012.

"signed by"

Leslie Reaume
Vice-chair