

The Alberta Human Rights Tribunal

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The Practical Side of Administrative Agencies, Boards, and Tribunals

Presented by:

Janice R. Ashcroft

Office of the Chief of the Commission and Tribunals

Alberta Humans Rights Commission

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Legislation and Bylaws

Alberta Human Rights Act, R.S.A. 2000 C. A-25.5 (the Act). The Act is primacy legislation.

Bylaws are established pursuant to section 17 of the Act. Bylaws address procedural matters, related to the handling of complaints and related to human rights tribunals.

Historical and Present Structure of the Alberta Human Rights Tribunal

In 1966 the legislation created an Administrator who could appoint, through the Minister, a Board of Inquiry to investigate complaints. In 1972, the *Individual's Rights Protection Act (IRPA)* created the Commission. A Board of Inquiry could be set up by the Minister at the Commission's request, with the Board investigating and adjudicating complaints. The Board's remedial authority was limited to making recommendations which, if not agreed to by the parties, would go to Court for confirmation and enforcement.

In 1980 the *IRPA* evolved to include an Investigator who took over the investigative role earlier given to the Board. The Commission could appoint a Board of Inquiry with members allowed to grant remedies.

After the *Human Rights, Citizenship and Multiculturalism Act* was enacted in 1996 the Board was renamed as a Panel. The Panel then became the Tribunal in the *Alberta Human Rights Act* with amendments passed October 1, 2009.

There are two regional offices, one in each of Calgary and Edmonton, performing complaint resolution and educational services. Human rights complaints are filed with the regional offices. Conciliation and investigation is also undertaken at the regional office level. If the complaint is not resolved and merit is found to the complaint by the Director, the complaint is moved to the Tribunal or hearing stage.

There are two tribunal offices separate from the Directors' offices, again in each of Calgary and Edmonton. The tribunal offices house the Office of the Chief of the Commission and Tribunals, and provide support to the ongoing work of the Tribunals.

Relationship between the Director of the Commission and the Human Rights Tribunal

The Director of the Commission is responsible for complaint resolution including conciliation and investigation. If merit is found to a complaint the Director represents the public interest, through counsel, at the Tribunal hearing.

The human rights tribunal consists of independent adjudicative decision makers and has separate offices, separate legal counsel, and is not in contact with Commission members about files. The tribunal conducts tribunal dispute resolution or adjudicates human rights complaints at the very end stage of the proceedings.

Independence and bias issues were tested in *United Food and Commercial Workers, Local 401 v. Alberta Human Rights and Citizenship Commission* 2003 ABCA 246. The tribunal was found to be sufficiently independent from the Commission and no reasonable apprehension of bias existed.

Human Rights Complaint Process

A human rights complaint is accepted on reasonable grounds at one of the regional offices of the Commission. A written response is then solicited from the Respondent. The complaint may then be assigned to conciliation or investigation. A complaint may also proceed directly to a tribunal hearing or be dismissed by the Director at any time if it is without merit.

Unlike some of the other statutory human rights Commissions in Canada, the Commission cannot initiate a human rights complaint.

The Director may also discontinue the complaint if a fair and reasonable settlement offer has been rejected by the Complainant.

The complaint may also be settled at any time by the parties.

If the Director finds merit to the complaint based on the “reasonable basis in the evidence to proceed” test, and the parties are unable to settle, the matter is referred to the Chief of the Commission and Tribunals (section 22).

If the Director dismisses the complaint as without merit, or discontinues the proceedings because the Complainant has refused to accept a proposed settlement that is fair and reasonable, the