

HUMAN RIGHTS TRIBUNAL OF ONTARIO

BETWEEN:

KEVIN ALEXANDER MCLEAN

APPLICANT

AND:

TORONTO POLICE SERVICES BOARD, ANTHONY ROMANO, MICHAEL KOLANKOWSKI, SERGEANT CASSIDY, GOLDVIEW PROPERTY MANAGEMENT LTD., LATOYA FERGUSON, AND APHRODITE ARTOPOULO

DECLARATION #6 OF THE APPLICANT
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I, Mr. Kevin A. McLean (he/him), disabled, of Toronto, Ontario, declare the following under the penalty of perjury and knowing any statement here that is a false statement to be an offence:

1. I declare the following facts to be true. Where I have declared any facts on belief, I have cited the source of my belief.
2. As promised and represented to the Tribunal and the respondents, through their counsel, I would provide a declaration #6 and #7 in relation to my opposition to two unclear, as they relate to my knowledge, requests of some of the respondents.
3. As per the Landlord's request to dismiss, after further review and inspection, I cannot find any ongoing court proceeding where I am seeking, arising out of the same facts, an order under section 46.1 [presumably of the HR Code]. I have copied the language from the HRTO in this regard and bolded and double underlined relevant portions:

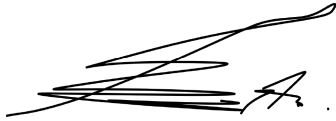
“Dismiss the Application on the grounds there is an ongoing court proceeding arising out of the same facts in which the applicant is seeking an order under section 46.1 which has not been finally determined or withdrawn, or which has been settled or where the court has finally determined the issue of whether the right has been infringed. See Section 34(11) of the Human Rights Code “the Code”.

4. I note the following definitions under the *Rules of Civil Procedure*, RRO 1990, Reg 194

- a. “court” means the court in which a proceeding is pending and, in the case of a proceeding in the Superior Court of Justice, includes an associate judge (see: 1.03 of ROCP); and
 - b. “order” includes a judgment (see: 1.03 of ROCP).
5. I note the following from the *HR Code*:
 - a. Section 34(11): (11) A person who believes that one of his or her rights under Part I has been infringed may not make an application under subsection (1) with respect to that right if,
 - i. (a) a civil proceeding has been commenced in a court in which the person is seeking an order under section 46.1 with respect to the alleged infringement and the proceeding has not been finally determined or withdrawn; or
 - ii. (b) a court has finally determined the issue of whether the right has been infringed or the matter has been settled. 2006, c. 30, s. 5
 - b. 46.1 (1) If, in a civil proceeding in a court, the court finds that a party to the proceeding has infringed a right under Part I of another party to the proceeding, the court may make either of the following orders, or both:
 - i. An order directing the party who infringed the right to pay monetary compensation to the party whose right was infringed for loss arising out of the infringement, including compensation for injury to dignity, feelings and self-respect.
 - ii. An order directing the party who infringed the right to make restitution to the party whose right was infringed, other than through monetary compensation, for loss arising out of the infringement, including restitution for injury to dignity, feelings and self-respect. 2006, c. 30, s. 8.
6. I also note the distinction between the language of the Legislature between Tribunal or court in the *HR Code*.
7. Out of an abundance of caution, I believe that the Courts of Justice Act applies to the Ontario Court of Justice (OCJ). The Act establishes the primary jurisdiction of the three Ontario courts, including the OCJ. The OCJ deals with matters like adult criminal, youth criminal, family law, child welfare, and provincial offenses. I believe that the *CJA* establishes the structure and jurisdiction of the three provincial courts: the Court of Appeal for Ontario, the Superior Court of Justice, and the Ontario Court of Justice (see: section 1.1 of the CJA).
8. I have not filed any claim or application in any court in Ontario or otherwise that arises out of the same facts as this HRTA Application against the Landlord. Again, the Landlord must be confused with another individual. I am not seeking any order against the Landlord under section 46.1 of the *HR Code* against her or any individual or person for that matter. I ask that the HRTA dismiss the Landlord’s request as it is based on a false premise as there is no ongoing court proceeding arising out of the same facts and I am certainly not advancing any court action, claim or application where I seek an order under section 46.1 of the *HR Code*. I ask that if the Landlord cannot produce a copy of this alleged court proceeding

where I am seeking an order under section 46.1 of the *HR Code* on a forthwith basis that her request is dismissed forthwith.

9. I appreciate the HRT0 relaying and particularizing the request of Ms. Aphrodite Artopoulos but I cannot find, after inspection, any such ongoing court proceeding where I am seeking any order under section 46.1 of the *HR Code*.
10. I thank the Respondents and the HRT0 for the indulgence to review my file records involving any ongoing court proceeding but I can unequivocally confirm that there is no such ongoing court proceeding involving the same facts where I am seeking any order under section 46.1 of the *HR Code* against Ms. Aphrodite Artopoulos or any individual or person for that matter. I allege that Ms. Aphrodite Artopoulos has abused the process of this Tribunal and will seek consequential relief for wasting the HRT0's time and mine.
11. I declare the following facts to be true, for no improper purpose and for purposes herein.

A handwritten signature in black ink, appearing to read 'K. A. McLean', with a stylized flourish at the end.

Mr. Kevin A. McLean (B.A., J.D., CIM)