

REGISTERED

November 20, 2020

Complaint #: N2019/06/0096

James Cyrynowski

Dear James Cyrynowski:

Re: James Cyrynowski v. Danielle [REDACTED]: Dismissal of Complaint

After reviewing and considering the complaint you filed with the Alberta Human Rights Commission, this is your official notice that your complaint is dismissed. The following paragraphs outline the reasons for this decision.

You have a time-limited opportunity to request a review of this decision, more completely described at the end of this letter, and I have also attached an information sheet about the review process.

Why the Complaint is Dismissed

Section 22 of the Alberta Human Rights Act (*the Act*) provides that the AHRC Director may dismiss a complaint at any time.

1. The complaint from you was accepted on June 6, 2019 based on the complaint received May 1, 2019. The complaint alleged discrimination in the area of employment advertisements, applications, interviews, on the protected ground of family status.
2. The Respondent to the complaint is Danielle [REDACTED].
3. This complaint was investigated, an investigation memo prepared, and the parties each received the memo and copies of all submissions made. In making this decision, the complaint, response, all other submissions and the investigation memo dated September 26, 2019, have been reviewed. Both parties had the opportunity to provide comment on the investigation memo, but only you did. I have reviewed your letter dated October 16, 2019. I agree with the recommendation of the memo, which is that this complaint has no merit.

4. I understand that you feel discriminated against because you indicated your interest for a position as a caregiver and say you were denied the position on family status grounds since you were asked whether you had children.

5. I agree with the analysis in the investigation memo. There is no evidence to support that you were unsuccessful in the application process for any protected ground. Your speculation as to why you were not successful is not a foundation for a meritorious complaint under the Act. Given that the position required a part-time experienced caregiver for three young children in a private home, the personal preference for a caregiver, including experience with children, can be justified as a bona fide occupational requirement under the Act. In these circumstances, I see no reasonable basis for this matter to proceed to the next step in the complaint process.

For the above reasons, my conclusion is that the complaint is without merit and this complaint is therefore dismissed.

Request for Review

If you disagree with this decision, you have the right to ask the Chief of the Commission and Tribunals (the Chief Commissioner) to review the decision. There is a strict time limit within which you must submit your Request for Review. According to requirements laid out in section 26(1) of the *Alberta Human Rights Act*, the Office of the Chief of the Commission and Tribunals must receive your Request for Review **within 30 calendar days** from the date you received this letter.

For more information, please consult the enclosed, *Information about the Request for Review Process*.

Your file will be closed once the appeal period has passed.

Yours truly,



Nancy Henderson
AHRC Director

Enclosure ✓

cc: ✓ Marty Moore for Danielle [REDACTED]

Information about the Request for Review process

Introduction

Under section 26 of the *Alberta Human Rights Act* (the *Act*), a complainant may ask the Chief of the Commission and Tribunals (Chief Commissioner) to review the Director of the Commission's decision. This is called a Request for Review or an "appeal".

The *Act* sets out strictly enforced timelines and procedures that everyone must follow. Information can be found about a Request for Review in the *Act* and the *Alberta Human Rights Commission Bylaws* at <https://www.albertahumanrights.ab.ca/about/pages/legislation.aspx>

1. When may a complainant submit a Request for Review?

A complainant may submit a Request for Review after the Director has dismissed a complaint, or when the Director has discontinued a complaint because the complainant refused to accept a proposed settlement that was fair and reasonable.

2. What will be accepted as a Request for Review?

The Request for Review must be in writing (handwritten or typed), and include reasons why the Chief Commissioner should review the Director's decision.

The Request for Review may also include additional information that the complainant believes is relevant to the complaint, but may not include new allegations. It should not exceed 30 single-sided pages including attachments.

3. What is the time limit for the complainant to submit a Request for Review?

- The Chief Commissioner must receive a Request for Review from the complainant, and any additional information relevant to the complaint, within 30 calendar days of the complainant receiving the Director's Notice of Dismissal. See section 26(1) of the *Act*.
- The Notice of Dismissal from the Director will be sent by registered mail. The 30-day time limit to appeal starts from the date that the Notice of Dismissal is received.
- The complainant should deliver the Request for Review to the Office of the Chief Commissioner by mail, fax, email, courier or in person.
- The Office of the Chief Commissioner will send the respondent a copy of the complainant's Request for Review including any attachments.

4. What is the time limit for the respondent to respond to the Request for Review?

The respondent, if they choose to respond, has 30 days after receiving a copy of the Request for Review to submit a response to the Office of the Chief Commissioner (section 9(2) *Alberta Human Rights Commission Bylaws*).

5. What should the respondent submit in the response to the Request for Review?

- The respondent may submit any written information that is relevant to the complaint.
- The response should not exceed 30 single-sided pages including attachments.
- The Office of the Chief Commissioner will send the complainant a copy of the respondent's response, if one has been received.

6. What information will the Chief Commissioner review?

The Request for Review will be determined on the basis of the written record, including any submissions from the complainant and respondent, plus the file that was before the Director. The Director will provide the complaint file to the Chief Commissioner, including:

- The Complaint, the Response and any attachments;
- The Investigation Report or Investigation Memo, if one was written;
- Any attachments to the Investigation Report or Investigation Memo;
- The Notice of Dismissal or the Notice of Discontinuance; and
- All relevant correspondence and documents between the Director and the parties.

The complainant and respondent are responsible for sending the Chief Commissioner any other documents, not listed above, that are relevant to the Complaint.

7. What happens after the Chief Commissioner reviews the Request for Review?

The Chief Commissioner may uphold or overturn the Director's decision. The Chief Commissioner's decision is final and binding on the parties, subject to judicial review.

Where the Chief Commissioner overturns the Director's decision, the complaint will go through the Tribunal process. The complainant will be responsible for presenting their complaint to a Human Rights Tribunal. Where the Chief Commissioner upholds the Director's decision, the complaint file will be closed.

Please note that all Request for Review decisions will be published on CanLII. For information on circumstances that would warrant making names anonymous in a decision, please contact the Office of the Chief Commissioner.

8. Where should the Request for Review and response be sent?

Chief of the Commission and Tribunals
Alberta Human Rights Commission
7th Floor, Commerce Place, 10155-102 Street
Edmonton, Alberta T5J 4L4
Fax: 780-638-4641
Email: AHRCTribunal@gov.ab.ca

Important: Please keep your current contact information updated with the Tribunal

For more information please call 780-638-4635

To call toll-free within Alberta, dial 310-0000 and then enter the area code and phone number