HUMAN RIGHTS TRIBUNAL OF ONTARIO

B E T W E E N:

Philip Anisimov

Applicant

-and-

Ontario Tech University

Respondent

RECONSIDERATION DECISION

Adjudicator: Lavinia Inbar

Date: October 29, 2025

File Number: 2021-48071-I

Citation: 2025 HRTO 2702

Indexed as: **Anisimov v. Ontario Tech University**

WRITTEN SUBMISSIONS

Philip Anisimov, Applicant	)	Hatim Kheir, Counsel

INTRODUCTION

[1] On August 12, 2025, the Tribunal issued Decision 2025 HRTO 2377, dismissing the Application. The applicant has asked the Tribunal to reconsider the Decision under section 45.7 of the *Human Rights Code*, R.S.O. 1990, c. H.19, as amended (the "*Code*").

Background

[2] The Application alleged discrimination in services on the basis of creed, contrary to the *Human Rights Code*, R.S.O. 1990, c. H.19, as amended (the "*Code*").

[3] The applicant was a student enrolled at the respondent university. When the respondent implemented a mandatory vaccine requirement, the applicant requested an exemption on the basis of creed. He informed the respondent that, as a devout Christian, he could not receive the COVID-19 vaccines due to their connection to aborted fetal cells. The applicant alleged that the respondent refused to accommodate the applicant and deregistered him from two courses including a full-year course. As a result, the applicant had to take an additional year to complete his degree.

[4] A hearing on the merits of this Application was held on April 15 and 16, 2025 by videoconference. Both parties were represented by counsel.

THE LAW

[5] Under section 45.7 of the *Code*, the Tribunal may, at the request of a party or on its own initiative, reconsider its decisions in accordance with Tribunal's Rules of Procedure (the "Rules").

> 45.7(1) Any party to a proceeding before the Tribunal may request that the Tribunal reconsider its decision in accordance with the Tribunal rules.
>
> (2) Upon request under subsection (1) or on its own motion, the Tribunal may reconsider its decision in accordance with its rules.

[6] Rule 26 states:

> 26.1 Any party may request reconsideration of a final decision of the Tribunal within 30 days of the date of the decision.
>
> . . .
>
> 26.5 A Request for Reconsideration will not be granted unless the Tribunal is satisfied that:
>
> (a) there are new facts or evidence that could potentially be determinative of the case and that could not reasonably have been obtained earlier; or
>
> (b) the party seeking reconsideration was entitled to but, through no fault of its own, did not receive notice of the proceeding or a hearing; or
>
> (c) the decision or order which is the subject of the reconsideration request is in conflict with established jurisprudence or Tribunal procedure and the proposed reconsideration involves a matter of general or public importance; or
>
> (d) other factors exist that, in the opinion of the Tribunal, outweigh the public interest in the finality of Tribunal decisions.

[7] Under section 45.7 of the *Code* and Rule 26 of the Tribunal's Rules of Procedure, the Tribunal may reconsider its decisions; there is no right to have a decision reconsidered. Reconsideration is not an appeal, nor is it an opportunity for a party to present further arguments or change the way a case was presented. See *Landau v. Ontario (Minister of Finance)*, 2012 ONSC 6926 (Div. Ct.), at para. 17, and *Sigrist and Carson v. London District Catholic School Board*, 2008 HRTO 34 ("*Sigrist*").

[8] The Tribunal's Practice Direction on Reconsideration includes the following statements:

> Reconsideration is a discretionary remedy; there is no right to have a decision reconsidered by the HRTO. Reconsideration is not an appeal or an opportunity for a party to change the way it presented its case.

[9] In *Paul James v. York University and Ontario Human Rights Tribunal*, 2015 ONSC 2234, the Divisional Court found that it was reasonable for the Tribunal to decline to exercise discretion to reconsider its original decision in that case as:

> …there were no compelling and extraordinary circumstances for doing so and there were no circumstances which outweighed the public interest in the finality of orders and decisions of the Tribunal.

[10] In *Garrie v. Janus Joan Inc.*, 2012 HRTO 1955 ("*Garrie*") at paragraph 24, the Tribunal recognized that it must exercise its reconsideration power with care and stated:

> Importantly, however, the Tribunal must exercise this reconsideration power with care. As the Tribunal explained in [*Taranco v. Michedes*, 2009 HRTO 1439], at para. 15, the public interest in the finality of Tribunal decisions is important. It ensures that parties can consider Tribunal decisions final when they are made and that the Tribunal's resources are used wisely and in a way that fulfils its mandate under the *Code*. It also ensures that the Tribunal's decisions are not in a constant state of flux and can serve as an effective guide for members of the community as to their obligations under the *Code*.

[11] The Tribunal may decide when reconsideration is advisable, both through the promulgation of rules setting out conditions for the exercise of its discretion, and through the application of its discretion on a case-by-case basis.

THE REQUEST FOR RECONSIDERATION

[12] The Request for Reconsideration (the "Request") relies on Rules 26.5(c) and (d), as the reasons why the Tribunal should reconsider its Decision.

[13] The respondents were not required to respond to the applicant's Request.

ANALYSIS

[14] I find that the applicant has not met the burden of establishing any of the threshold criteria justifying reconsideration.

[15] As indicated above, the applicant relies on Rules 26.5 (c), and (d). Although I do not here address point by point the applicant's arguments in the Request, I have carefully considered them all. See *Clifford v. Ontario Municipal Employees Retirement System*, 2009 ONCA 670, 312 DLR (4th) 70. As the Supreme Court of Canada noted in *Newfoundland and Labrador Nurses' Union v. Newfoundland and Labrador (Treasury Board)* 2011 SCC 62, [2011] 3 S.C.R. 708, at para. 16, "[r]easons may not include all the arguments, statutory provisions, jurisprudence or other details the reviewing judge would have preferred, but that does not impugn the validity of either the reasons or the result under a reasonableness analysis. See also M.M. *v. L.C.*, 2025 ONSC 741.

[16] In support of his Request, the applicant raises three issues:

> i. the Adjudicator failed to apply the *Amselem* test and inverted the subjective test for religious belief by requiring objective grounds for the Applicant's sincere belief that his faith required him to abstain from receiving COVID-19 vaccines;
>
> ii. the Adjudicator disregarded binding Court of Appeal jurisprudence that defines adverse impact discrimination as requiring merely that the Applicant's religion be connected to the adverse impact experienced; and
>
> iii. the Adjudicator misapprehended the evidence by adopting a factual claim made in the submissions of counsel for the Respondent which was unsupported by evidence into the findings of fact.

Rule 26.5(c)

[17] The applicant submits that the "above three errors wholly undermine the basis for the Decision and led to a legally and factually unsupportable dismissal of the application. Correcting the errors is necessary for the Tribunal to correct harmful precedents and ensure the fairness of its decisions."

[18] To the extent that the applicant disagrees with any of the findings in the Decision, I rely upon the reasons contained in the Decision and will not repeat them.

[19] I note however, with respect to the applicant's first issue, that while the Decision considered Syndicat *Northcrest v. Amselem*, 2004 SCC 47 ("*Amselem*"), the Decision also considered the relevant case law developed in the over two decades since *Amselem.*

[20] I note too, that even if the applicant is correct with respect the first two points, the Decision found that the respondent called evidence in support of an undue hardship defence which was accepted and the Decision found that the defence was made out.

[21] The Tribunal stated in *Sigrist* that a "conflict with established jurisprudence or procedure" requires (at a minimum) that there be a settled understanding about the legal rules that apply, and a clear and surprising departure from those legal rules. While the applicant clearly disagrees with the conclusions of the Tribunal, I am satisfied that the applicant's submissions on this Request do not establish, pursuant to Rule 26.5(c), that the Tribunal's Decision conflicts with established jurisprudence or procedure. Having made this finding, it is not necessary for me to consider whether the proposed reconsideration involves a matter of general or public importance.

Rule 26.5(d)

[22] With respect to Rule 26.5(d), the applicant submits that the "Decision also contains a finding of fact that was not in evidence, but merely asserted by counsel in closing submissions, which outweighs the public interest in the finality of Tribunal decisions."

[23] The "finding of fact" in question was that the Decision stated that the evidence of one of the respondent's witnesses was that a student who in the 2021 fall term was granted an interim creed-based accommodation and was allowed to attend campus on a single day to complete his lab requirement, was "alone" in the lab. The "misapprehension" was that it was not clear that the detail of the other student being "alone" in the lab was properly in evidence. The applicant further submits that "correcting the misapprehension of evidence completely undermines the Adjudicator's analysis on undue hardship." The applicant submits that if the respondent could allow the other student to attend campus in person, then it could have done the same for the applicant without undue hardship.

[24] I disagree.

[25] The finding of undue hardship was not dependant on whether or not another student who in the fall 2021 term was temporarily accommodated was “alone” in the lab. The fact that another student had been accommodated in a particular manner that semester, is not on its own, determinative of the issue of whether the respondent could accommodate the applicant in the applicant’s circumstance, in the following term (the winter term of 2022), without undue hardship.

[26] Additionally, I note that the interim accommodation granted to that student was during the time period, the 2021 fall term, when all students who requested a creed-based exemption because of the alleged connection between fetal cells and the vaccines were granted an interim accommodation until the end of the fall 2021 term, to provide the respondent with sufficient time to review the information available on this alleged connection. The interim accommodation allowed students to complete their fall 2021 courses online and applicant’s own evidence was that he was able to complete his courses that term pursuant to that accommodation. It was during the following term that the applicant was not accommodated.

[27] The Decision found that the respondent had been complying with the instructions and the guidance from public health officials during the time of the COVID-19 global pandemic. The Decision accepted the respondent’s reasons for not providing online the in-person requirements of the courses from which the applicant was de-registered.

[28] The crux of the Decision was the finding that accommodation on the applicant’s stated terms and in the particular circumstances of the applicant in the winter term of 2022, would not have been possible without undue hardship, for health and safety reasons (see subsection 11(2) of the *Code*) consistent with the guidance from the public health officials. Every accommodation request must be considered on its own facts and the Decision was made in the context of the factual situation presented in this specific case. As noted in the Decision:

> Part of the context of the COVID-19 pandemic was the uncertainty and changing landscape as 2020 and 2021 unfolded. Legislation and medical directives were developed over this period.

[29] I do not find factors exist, arising from the applicant's submissions regarding the "misapprehension" of evidence asserted by the applicant, that, in my opinion outweigh the public interest in the finality of Tribunal decisions pursuant to Rule 26.5(d).

Conclusion

[30] In sum, I find that the applicant has not established the existence of any of the criteria under Rule 26 that would lead to reconsideration of the Tribunal's Decision. And I do not find that there are compelling and extraordinary circumstances such that would warrant reconsidering the Decision.

[31] For these reasons, after reviewing the file, the law, the jurisprudence, and the details of the reconsideration request, I decline to exercise my discretion to reconsider the Decision.

ORDER

[32] The Request is refused.

Dated at Toronto, this 29th day of October, 2025.

Lavinia Inbar
Member