

Court File No.:

**ONTARIO
SUPERIOR COURT OF JUSTICE
(DIVISIONAL COURT)**

B E T W E E N:

PHILIP ANISIMOV

Applicant

and

**THE HUMAN RIGHTS TRIBUNAL OF ONTARIO and THE UNIVERSITY OF
ONTARIO INSTITUTE OF TECHNOLOGY**

Respondents

APPLICATION UNDER Rules 14.05(2) and 38 of the *Rules of Civil Procedure*, R.R.O. 1990,
Reg. 194 and Sections 2(1) and 6(1) of the *Judicial Review Procedure Act*, R.S.O. 1990, c J.1.

NOTICE OF APPLICATION TO DIVISIONAL COURT FOR JUDICIAL REVIEW

TO THE RESPONDENTS

A LEGAL PROCEEDING HAS BEEN COMMENCED by the applicant. The claim made by the applicant appears on the following page.

THIS APPLICATION for judicial review will come on for a hearing before the Divisional Court on a date to be fixed by the registrar by the method of hearing requested by the applicant, unless the court orders otherwise. The applicant requests that this application be heard in person at the following location:

Osgoode Hall
130 Queen Street West
Toronto, ON M5H 2N5

on a date and time to be determined.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38A prescribed by the Rules of Civil Procedure, serve it on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in the office of the Divisional Court, and you or your lawyer must appear at the hearing.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE

APPLICATION, you or your lawyer must, in addition to serving your notice of appearance, serve a copy of the evidence on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in the office of the Divisional Court within thirty days after service on you of the applicant's application record, or at least four days before the hearing, whichever is earlier.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN TO IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

TAKE NOTICE: THIS APPLICATION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for hearing or terminated by any means within five years after the notice of application was filed with the court, unless otherwise ordered by the court.

Date: November 27, 2025

Issued by
Registrar
130 Queen Street West
Toronto, ON M5H 2N5

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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APPLICATION

1. The Applicant, Philip Anisimov, makes application for:
 - a. An order quashing the decision of the Ontario Human Rights Tribunal (the “**Tribunal**”) dated September 22, 2025 dismissing the Applicant’s application to the Tribunal (the “**Initial Decision**”) and the Tribunal’s refusal to reconsider the Initial Decision dated October 29, 2025 (the “**Reconsideration Decision**”) (collectively, the “**Decision**”);
 - b. An order substituting a finding that the University of Ontario Institute of Technology (the “**University**”) discriminated against the Applicant on the basis of his creed in the provision of services contrary to ss. 1 and 9 of the *Human Rights Code*, RSO 1990, c. H.19 (the “**Code**”) and remitting the matter for the determination of appropriate damages;
 - c. An order extending the time to bring this application, if necessary;
 - d. An order that no costs be awarded for or against the Applicant who brings this application in the public interest; and
 - e. Such further and other relief as counsel may advise and this Honourable Court may permit.
2. The grounds for the application are:

The Parties

- a. The Applicant, Philip Anisimov, is an engineering project manager and a former student of the University. He was enrolled in the University’s engineering program at the relevant times;
- b. The Tribunal is an administrative decision maker statutorily empowered to hear applications for remedies to the infringements of human rights protected by the *Code*;

- c. The University is a university established by the *University of Ontario Institute of Technology Act, 2002*, SO 2002 c. 8, Sched. O with the object, *inter alia*, of providing undergraduate and postgraduate university programs;

Factual Background

- d. The Applicant is a Baptist Christian. He sincerely believes that he is required to follow religious commandments in the Bible. He believes that abortion is murder and that he is religiously obligated to avoid the fruits of sinful conduct, including abstaining from medications which were developed or otherwise brought to market using the byproducts of abortions;
- e. The Applicant's religious beliefs and practices required him to abstain from the COVID-19 vaccines because they were brought to market having been tested on cells from the HEK-293 cell line, which was obtained from aborted fetal tissue;
- f. The Applicant was enrolled in the University. But for the University's actions described below, the September 2021 – April 2022 academic year would have been his last before graduating;
- g. On August 12, 2021, the University announced that it would be requiring students attending campus to be fully vaccinated against COVID-19 (the "**Vaccine Policy**"). The University permitted exceptions for medical reasons or other grounds recognized by the *Code*;
- h. On August 23, 2021, the Applicant submitted a request to the University for an accommodation asking to be exempted from the Vaccine Policy because his religious beliefs prohibited him from receiving the COVID-19 vaccines. The Applicant noted the use of fetal cells as the basis for his religious objection. The Applicant used the form provided by the University and kept his explanation brief to fit within the space allotted;

- i. On August 30, 2021, the Chief Medical Officer of Health issued instructions to universities requiring that they create COVID-19 vaccine policies requiring that students attending campus either 1) provide proof of full vaccination against COVID-19; 2) provide written proof of a medical reason for not being fully vaccinated; or 3) complete an educational session. Unvaccinated individuals were required to regularly take antigen tests to prove they are not infected with COVID-19. The instructions permitted universities to remove the option of attending an educational session;
- j. By October 4, 2021, the Applicant had not heard a response from the University and re-submitted his request for accommodation.
- k. On October 5, 2021, the University rejected the Applicant's request for accommodation claiming it lacked detail and failed to identify the connection between the Applicant's creed and his request for accommodation;
- l. That same day, on October 5, 2021, the Applicant replied to the University providing a lengthier and more detailed explanation of his religious objection to the COVID-19 vaccines, including biblical references and quotes. He explained that he had not received any vaccines since he was six years old and expressed his willingness to take alternative precautions including regular testing and mask wearing;
- m. On October 12, 2021, the University again rejected the Applicant's request for accommodation. The University rejected the premise of the Applicant's religious objection stating that the vaccines' connection to abortion was "too remote to warrant accommodation in the face of a global pandemic" and argued that the Applicant's pro-life position was inconsistent with abstaining from vaccination;

- n. On October 15, 2021, the Applicant replied to the University defending his position and arguing with the points raised by the University. He reiterated his religious objection to the vaccines and requested exemption from the Vaccine Policy;
- o. On October 18, 2021, the University reiterated its rejection and stated that its position was final;
- p. On November 9, 2021, the Applicant was notified that he would be deregistered from his in-person courses on November 12, 2021;
- q. On November 17, 2021, the University granted the Applicant an “interim accommodation” for the fall term, permitting him to complete his in-person exams online. A similar interim accommodation was granted to all students who requested an exemption on the basis of a religious objection to the use of fetal cell lines. The University noted that it is not amending its decision;
- r. In the winter term, the Applicant was deregistered from two courses with in-person components: Industrial Ergonomics and the Capstone course. Industrial Ergonomics had an in-person exam and the Capstone course had two in-person presentations at the end of the semester;
- s. The Capstone course was a mandatory course. The Applicant’s deregistration prevented him from graduating in 2022 as expected. As the Capstone course is a full-year course, he was required to take an additional year and ultimately graduated in June 2023.

The Decision

- t. On December 16, 2021, the Applicant filed an application with the Tribunal (the “**Tribunal Application**”) alleging that the University had failed to accommodate him on the basis of his creed contrary to the *Code*;
- u. The Tribunal Application was heard by the Tribunal on April 15 and 16, 2025;

- v. The Applicant testified and called one expert witness, Dr. Thomas Warren. Dr. Warren provided a report providing his expert opinion on the comparative risk of transmission of COVID-19 between a vaccinated, untested person and an unvaccinated person who has taken a rapid antigen test and received a negative result;
- w. After a *voir dire*, the adjudicator, Lavinia Inbar (the “**Adjudicator**”) excluded Dr. Warren’s evidence on the grounds that “the Tribunal would not be making any determinations with respect to” the issues addressed in Dr. Warren’s report.
- x. The University called two witnesses: Monica Jain and Hossam Kishawy. Ms. Jain provided evidence about the University’s accommodation process and its decision with respect to the Applicant. Dr. Kishawy is the Dean of the Faculty of Engineering and gave evidence about the Faculty’s preference for in-person examination and presentations;
- y. Ms. Jain also provided evidence about an unvaccinated student who, like the Applicant, was given an interim accommodation in the fall term (the “**Chemistry Student**”). Her evidence was that the Chemistry Student was allowed to attend campus once to complete a lab requirement;
- z. Counsel for the Applicant argued that the Chemistry Student’s accommodation proves that the University could permit an unvaccinated student to attend campus on a limited basis without undue hardship;
- aa. In her closing submissions, counsel for the University submitted that the Chemistry Student’s accommodation was distinguishable because the Chemistry Student was alone in the lab. In reply, counsel for the Applicant noted that whether the Chemistry Student was alone was not in evidence as Ms. Jain had said no such thing;

- bb. The Tribunal rendered its Initial Decision on the Tribunal Application on September 22, 2025;
- cc. In her reasons, the Adjudicator made a finding of fact that the Chemistry Student was alone in the lab. The Adjudicator ascribed this fact to Ms. Jain's evidence;
- dd. The Adjudicator also found that the Applicant's religious beliefs were sincerely held;
- ee. However, the Adjudicator held that not all beliefs ascribed to a religion constitute a creed for the purposes of the code. The Adjudicator held that the Applicant had "not pointed to any objective religious precepts that forbid vaccines, aside from his own interpretations of Biblical passages";
- ff. The Adjudicator also found that the Applicant was required to establish that his belief about vaccines was "a tenet of an organization or at least a community comprised of more than a number of unconnected individuals who happen to be members of the same religion." She found the Applicant had not done so;
- gg. The Adjudicator went on to consider, in the alternative, the remainder of the legal test applicable to the issue of *prima facie* discrimination. The Adjudicator held that the Applicant's protected characteristic was not a factor in the University's adverse treatment of him;
- hh. The Adjudicator also found that the University could not have accommodated the Applicant by permitting him to attend campus after antigen testing because it would have caused undue hardship;
- ii. On October 22, 2025, the Applicant requested that the Tribunal reconsider the Initial Decision because the Adjudicator misapplied the law with respect to religious beliefs protected by the *Code*, the test for *prima facie* discrimination, and the Adjudicator misapprehended the evidence about the Chemistry Student which led to the

unsubstantiated finding that the University could not allow the Applicant to attend campus with antigen testing on a limited basis without causing undue hardship;

- jj. On October 29, 2025, the same Adjudicator rendered the Reconsideration Decision. Having reconsidered her own Initial Decision, she relied on her own reasons to affirm her findings with respect to the application of the *Code* to the Applicant's religious beliefs and the test for *prima facie* discrimination;
- kk. The Adjudicator also held that if she had misapprehended the evidence regarding the Chemistry Student, it would not change her conclusion on undue hardship because whether the University could accommodate the Chemistry Student in the fall term was "not determinative" of whether the University could accommodate the Applicant in the winter term;

Legal Grounds

- ll. The Decision (the Initial Decision and the Reconsideration Decision considered collectively) is incorrect and unreasonable because the Adjudicator failed to apply the correct test for a protected religious belief under the Code;
- mm. The Decision is incorrect and unreasonable because the Adjudicator did not apply the correct legal test to the issue of *prima facie* discrimination and whether the adverse impact suffered by the Applicant was connected to his religious belief;
- nn. The Decision is incorrect and unreasonable because the Adjudicator made findings of fact without a basis in the evidence before her which had a material impact on the conclusions she reached about undue hardship;
- oo. The Decision is incorrect and unreasonable because the Adjudicator excluded the evidence of Dr. Warren on the basis that the Tribunal would not make any determinations on the issue of comparative risk between vaccinated individuals and unvaccinated individuals with negative antigen test results. However, the

Adjudicator contradictorily based her finding of undue hardship on the basis that the University could not accommodate the Applicant by permitting antigen testing (along with other safety precautions) “because of the health and safety considerations at play at the time.” The Adjudicator ultimate determination was based on an issue that Dr. Warren provided evidence on.

- pp. The Decision is incorrect and unreasonable because the above impugned findings are unjustifiable in light of the factual and legal constraints and were not justified by a rational chain of analysis;
- qq. The Reconsideration Decision is tainted by a reasonable apprehension of bias because the Adjudicator could not impartially consider whether her own Initial Decision was flawed for the reasons argued by the Applicant. The Tribunal should have assigned a different adjudicator to consider the request for reconsideration; and
- rr. If the above errors are corrected, the factual record before the Tribunal which was accepted by the Adjudicator leads to the inevitable conclusion that the Applicant was discriminated against on the basis of his creed and the University failed to accommodate him up to a point of undue hardship; and
- ss. Given the inevitability of the conclusion that the University breached its duties to the Applicant under the *Code*, the Court should quash the Decision, substitute a finding that the University violated the Applicant’s right under the *Code* to be free from discrimination on the basis of creed, and remit the matter to the Tribunal to determine the appropriate quantum of damages.

- 3. The following documentary evidence will be used at the hearing of the application:
 - a. The Record of Proceedings;
 - b. The affidavit of Darren Leung, to be sworn;
 - c. The affidavit of Philip Anisimov, to be sworn; and

- d. Such further and other evidence as counsel may advise and this Honourable Court may permit.

November 27, 2025



Hatim Kheir

CHARTER ADVOCATES CANADA



Hatim Kheir (LSO#79576J)



Counsel for the Applicant

PHILIP ANISIMOV

APPLICANT

-and-

THE HUMAN RIGHTS TRIBUNAL OF ONTARIO et al.

RESPONDENTS

Court File No.:

ONTARIO SUPERIOR COURT OF JUSTICE

Proceeding Commenced at TORONTO

**NOTICE OF APPLICATION FOR
JUDICIAL REVIEW**

CHARTER ADVOCATES CANADA

[REDACTED]

Hatim Kheir (LSO#79576J)

[REDACTED]

Counsel for the Applicant