



HUMAN RIGHTS TRIBUNAL OF ONTARIO

BETWEEN:

Beverley (Bev) Kennedy

Applicant

-and-

**Condominium Authority of Ontario, Ministry of Municipal Affairs and Housing,
Minister of Energy and Electrification, Enbridge Gas, and
Independent Electricity System Operator**

Respondents

RECONSIDERATION DECISION

Adjudicator: Aulaire O'Malley

Date: February 19, 2026

File Number: 2025-60726-I

Citation: 2026 HRTO 299

Indexed as: **Kennedy v. Condominium Authority of Ontario**

INTRODUCTION

[1] On March 24, 2025, the applicant brought an Application against the respondents in which she alleged discrimination on the basis of sex, marital status, and age with respect to goods, services, and facilities and accommodation, contrary to the *Human Rights Code*, R.S.O. 1990, c. H.19, as amended (the “Code”). On December 19, 2025, the Tribunal dismissed the Application as outside of its jurisdiction because the applicant has not provided any factual basis for her belief that the respondents’ conduct was linked to her Code-protected characteristics while also considering her allegations of constructive discrimination: see *Kennedy v. Condominium Authority of Ontario*, 2025 HRTO 3069 (the “Decision”). On December 29, 2025, the applicant has filed a Request for Reconsideration of the Decision pursuant to section 45.7 of the Code and Rule 26 of the Tribunal’s Rules of Procedure.

[2] The Tribunal’s Practice Direction on Reconsideration provides guidance on the Tribunal’s exercise of its reconsideration power. The Tribunal has found many times that reconsideration is a discretionary remedy, that there is no right to have a decision reconsidered by the Tribunal even if the criteria in Rule 26 are met, and that reconsideration is not an appeal or an opportunity to re-argue the case: see, for example, *Sigrist and Carson v. London District Catholic School Board et al.*, 2008 HRTO 34.

[3] As noted by the Divisional Court in *Landau v. Ontario (Minister of Finance)*, 2012 ONSC 6926, at para. 17, “A reconsideration is not an appeal or a hearing de novo. More importantly perhaps, there is no right to have a decision reconsidered.”

[4] In *Paul James v York University and Ontario Human Rights Tribunal*, 2015 ONSC 2234, at paras. 56 to 58, the Divisional Court confirmed the importance of not treating the Tribunal’s reconsideration process as an appeal, or an opportunity to repair deficiencies in the original presentation of a case. They also found that it was reasonable for the Tribunal to decline to exercise its 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.”

[5] Pursuant to Rule 26.5, the Tribunal will not grant reconsideration unless 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;
- 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;
- c. the decision is in conflict with established case law or Tribunal procedure and the proposed reconsideration involves a matter of general or public importance; or
- d. other factors exist that outweigh the public interest in the finality of Tribunal decision.

[6] The applicant submits that pursuant to Rule 26.5(a), (c), and (d), the Request for Reconsideration should be granted.

[7] As will be discussed below, none of the applicant’s arguments meet the requirements under Rule 26.5(a), (c), and (d) and as such, the Request for Reconsideration is denied.

ANALYSIS

No new facts or evidence that could potentially be determinative of the case (Rule 26.5(a))

[8] The applicant has not provided new facts or evidence that could be determinative of the case. It appears that the applicant is merely rearguing the case and as noted, reconsideration will not be granted on this basis.

[9] The applicant provided multiple submissions wherein she reiterated that the respondents have provided much fewer funding and programs for those who reside in

mid and high-rise condominiums, such as herself, as opposed to funding and programs available for other types of dwellings. While she alleges the adverse effect of the respondents' conduct and policies, the applicant has not provided new facts, that could not reasonably have been obtained earlier, that could support a finding that the respondents' conduct was related to her *Code* grounds. She also submits that condominium owners are predominantly older people, people with disabilities and "other marginalized groups", and as such, they are unfairly impacted by the respondents' conduct and policies. However, there are no allegations that could explain how these *Code* grounds are related to the respondents' conduct of providing less favourable funding to condominium dwellers. Moreover, these arguments have already been addressed in the Decision at paragraphs 12 to 20.

[10] I also note that the applicant has provided AI-generated submissions. Her AI-generated submissions touched on, among other things, how the Tribunal is "modernizing their intake and filtering mechanisms to address systemic discrimination" and on the question of "are condo dwellers more at risk from exclusion of government policies and programs that exclude such dwelling housing formats and if so why". Without determining the reliability of these submissions, these are not new facts that could not have been obtained earlier that are determinative of the issue.

[11] While the applicant feels indignant that she and other condominium owners have not received the same benefits as those who reside in other types of dwelling, her arguments have also just been previously addressed in the Decision. As noted above, paragraphs 12 to 20 discuss why the applicant's allegations do not engage the *Code*.

[12] Given the above, I find that the applicant has not met the requirements under Rule 26.5(a).

Decision is not in conflict with established case law or Tribunal procedure (Rule 26.5(c))

No conflict with established case law

[13] The applicant submits that the case law cited in the Decision was in conflict with established case law because her allegations relate to systemic issues and the cited case law only related to individual issues. She also submits that the cited case law in the Decision was “not on all fours” in relation to the issue.

[14] I do not find the applicant’s submissions to be persuasive. The Decision cites the cases of *Addai v. Toronto (City)*, 2012 HRTO 2252; *Al-Turki v. Ontario*, 2020 HRTO 392; and *Metro Taxi Ltd. Et al v. City of Ottawa*, 2024 ONSC 2725. Contrary to the applicant’s submission, the case of Metro Taxi deals with systemic discrimination.

[15] She also cites the cases of *Fraser v. Canada (Attorney General)*, 2020 SCC 28 (“*Fraser*”) and *Ontario (Health) v. Association of Ontario Midwives*, 2022 ONCA 458 (“*Midwives*”) and submits that the Tribunal must look at the outcome and not just the intent of the respondents’ actions.

[16] I am not persuaded by the applicant’s arguments and find that *Fraser* and *Midwives* do not assist the applicant.

[17] The Decision is consistent with *Fraser*. While the applicant has asserted that the mid and high rise condominium owners are predominantly older people or people with disabilities, compared to those who reside in other types of dwellings, she has not provided any facts to support her position. On the other hand, the appellants in *Fraser* were able to provide facts that could establish that the adverse impact predominantly affected women with young children, of which the appellants are included.

[18] The Decision is also consistent with *Midwives* for similar reasons. In *Midwives*, the Court of Appeal found that discrimination occurred against midwives who experienced discrimination at the hands of the government respondent. There was historical evidence

presented that supports the finding that midwifery is the “ultimate sex-segregated profession”. As noted earlier, the appellants in *Fraser* were able to provide facts that could establish that the adverse impact predominantly affected women with young children, of which the appellants are included. As noted earlier, the applicant has not provided any facts that could support her allegation that mid and high rise condominium owners are predominantly older people or people with disabilities.

[19] I also find that the Decision not only looked at the outcome but also whether the applicant has provided some factual basis for her belief that the respondents’ actions are linked to her *Code*-protected characteristics, which is necessary to determine whether the Tribunal has jurisdiction over the matter: see paragraphs 10 and 18 of the Decision.

[20] Given the foregoing, I do not find that the Decision conflicts with any established case law.

No conflict with Tribunal procedure

[21] The applicant submits the Tribunal has a new intake system that could flag systemic discrimination. She provides AI-generated submissions that states that the Tribunal, the Ontario Human Rights Commission (OHRC) and the Canadian Human Rights Commissions (CHRC) are modernizing their intake and filtering mechanisms to address systemic discrimination. Her submissions further state that these updates focus on identifying intersectional vulnerabilities—where factors like age, disability, and medical vulnerability overlap with environmental and housing crises. Without making a finding on the reliability of the applicant’s submissions, the body of the document pertains mostly to changes at the OHRC and CHRC. There were no details of any changes to the Tribunal that conflict with the Tribunal procedure followed in the Decision.

[22] Therefore, I do not find that the Decision was in conflict with any Tribunal procedure.

No other factors exist that outweigh the public interest in the finality of Tribunal decision (Rule 26.5(d))

[23] The applicant raises systemic discrimination, which had already been discussed at paragraphs 13 to 19 of the Decision. As noted, the applicant appears to be rearguing her case and as noted, reconsideration is not an appeal, and neither is it an opportunity to reargue the case. Therefore, I do not find that there are factors existing that outweigh the public interest in the finality of the Decision.

[24] Overall, I find that the applicant has not met the requirements under Rule 26.5(a), (c), or (d). None of the applicant's arguments amount to compelling and extraordinary circumstances which warrant granting the Request for Reconsideration. Therefore, I decline to exercise my discretion to reconsider the Decision.

ORDER

[25] The Request for Reconsideration is denied.

Dated at Toronto, this 19th day of February, 2026.

“Signed by”

Aulaire O'Malley
Member