HUMAN RIGHTS TRIBUNAL OF ONTARIO

B E T W E E N:

Jeff Vance

Applicant

-and-

His Majesty the King in Right of Ontario as represented by the Ontario Provincial Police and the Ontario Treasury Board Secretariat

Respondents

-and-

The Ontario Provincial Police Association

Intervenor

INTERIM DECISION

Adjudicator: Alexandra Barthos

Date: February 12, 2026

File Number: 2025-61569-I

Citation: 2026 HRTO 273

Indexed as: **Vance v. Ontario (Provincial Police)**

WRITTEN SUBMISSIONS

Jeff Vance, Applicant	)	Self-represented
His Majesty the King in Right of Ontario as represented by the Ontario Provincial Police and the Ontario Treasury Board Secretariat, Respondent	)	Lisa Compagnone, Counsel

INTRODUCTION

[1] This Interim Decision addresses whether the Tribunal should defer consideration of this Application pending the conclusion of three Union Grievances filed on behalf of the applicant by the Ontario Provincial Police Association (the "OPPA") on or about November 15, 2021: LAB-2021-2016, LAB-2021-2017, and LAB-2021-2018 (collectively the "Union Grievances").

[2] For the reasons that follow, the Application is deferred.

BACKGROUND

[3] On October 20, 2025, the respondent filed a Form 2 Response requesting that the Tribunal defer consideration of the Application because the issues in dispute are the subject of ongoing union grievances or arbitration proceedings.

[4] The applicant opposes deferral and states that there are no active parallel proceedings that address the issues raised under the *Human Rights Code*, R.S.O. 1990, c. H.19 (the "*Code*"). The applicant further indicates that there is minimal overlap between the Union Grievances and the Application, that deferral would delay the resolution of the human rights issues, that the Tribunal can grant superior remedies, that the Union Grievances will not resolve the *Code* issues, and that the respondent's deferral request should be denied as a matter of fairness.

ANALYSIS

[5] Before turning to the specific facts, I will briefly outline the legal framework that guides the Tribunal's discretion to defer an application.

[6] Section 45 of the *Code* provides that the Tribunal may defer an application in accordance with the Tribunal's Rules of Procedure. Under Rule 14.1, the Tribunal may, either on its own initiative or at the request of a party, delay consideration of an application on any terms it deems appropriate. In each case, the Tribunal will assess whether deferral

is the fairest, most just, and most efficient manner of proceeding with the application, taking into account the specific circumstances involved.

[7] In *Baghdasserians v. 674469 Ontario*, 2008 HRTO 404 (*"Baghdasserians*"), the Tribunal made the following general comments about deferral at paragraphs 18-19:

> [18] Deferral of an application ensures that proceedings dealing with the same issues do not run concurrently, thereby raising the possibility of inconsistent decisions on facts or law. However, deferral is not automatically invoked simply because the parties are involved in other legal proceedings.
>
> [19] Some of the factors that may be relevant in deciding whether to defer consideration of an application before the Tribunal are the subject matter of the other proceeding, the nature of the other proceeding, the type of remedies available in the other proceeding, and whether it would be fair overall to the parties to defer, having regard to the status of each proceeding and the steps that have been taken to pursue them.

[8] The Tribunal has also typically deferred applications where one or more grievances under a collective agreement are ongoing and arise from the same facts and human rights issues. This approach reflects the principle that grievance arbitrators possess the authority and the responsibility to apply and enforce human rights legislation and other employment-related statutes as though they were incorporated into the collective agreement. See *Parry Sound (District) Social Services Administration Board v. O.P.S.E.U., Local 324*, 2003 SCC 42 (*"Parry Sound"*) at paragraph 40.

[9] Although the applicant cites *British Columbia (Workers' Compensation Board) v. Figliola*, 2011 SCC 52 ("*Figliola*") for the proposition that deferral should be denied where grievances are stalled, this is incorrect.

[10] *Figliola* primarily addressed the exercise of adjudicative discretion pursuant to s. 27(1) of British Columbia's *Human Rights Code*, R.S.B.C. 1996, c. 210 (the "*B.C. Code*"), which permitted the British Columbia Human Rights Tribunal (the "BCHRT") to refuse to hear a complaint if the substance of that complaint had already been appropriately dealt with in another proceeding.

[11] In *Figliola*, the complainant workers experienced chronic pain and received fixed-amount compensation under the British Columbia Workers' Compensation Board's (the "BCWCB's") chronic pain policy. The Review Officer accepted that the BCWCB had jurisdiction over the human rights issue and concluded that the policy did not contravene s. 8 of the B.C. *Code*, and was therefore not discriminatory.

[12] The complainants appealed the Review Officer's decision to the Workers' Compensation Appeal Tribunal (the "WCAT"). Before the appeal was heard, a legislative amendment removed the authority of both the BCWCB and the WCAT to apply the B.C. *Code*. After the WCAT lost jurisdiction to apply the B.C. *Code*, the complainants sought to relitigate the same issues before the BCHRT. The matter ultimately reached the Supreme Court of Canada. A majority of the Supreme Court of Canada found that the Application before the BCHRT was an impermissible collateral attack and an abuse of process, because the BCWCB Review Officer had determined the issue. No substantive deferral issue was addressed, and this case is not of assistance to the applicant.

[13] The applicant also references a case cited as *Campbell v. Ontario (Community Safety and Correctional Services)*, 2013 HRTO 119, for the proposition that deferral should be denied where a grievance lacks *Code* remedies.

[14] That particular legal citation is associated with a different case, *McPherson v. Ontario (Attorney General)*, 2013 HRTO 119, which does not concern deferral.

[15] A case of the same name, *Campbell v. Ontario (Community Safety and Correctional Services)*, 2010 HRTO 1273, likewise does not address deferral. I am unable to find the case the applicant refers to and therefore have not considered it.

The Application

[16] In this case, there is significant overlap between the facts and issues raised in the Application and the Union Grievances, including the employer's pension contribution obligations, the application of Workplace Safety and Insurance Board ("WSIB") and Long-

Term Income Protection ("LTIP") provisions, and the calculation of Net Average Earnings ("NAE").

[17] The Application alleges that the Ontario Provincial Police (the "OPP") began a campaign targeting disabled workers, including the applicant. The campaign involved several changes to the applicant's employment-related entitlements, such as changing the way the applicant was paid and failing to remit the correct amount of taxes to the Canada Revenue Agency (the "CRA").

[18] The Application alleges that the OPP arbitrarily attempted to apply LTIP pension provisions to the applicant instead of the WSIB provisions that had primacy. As a result, the applicant was advised that the employer portion of the applicant's pension contributions would cease at the applicant's reduced retirement date rather than the applicant's actual retirement date.

[19] The Form 3 Reply states that workers' compensation payments, including WSIB benefits, are non-taxable. This fact is alleged to have been well known to the respondent when it implemented a NAE payment structure in December 2021. The applicant further states that the CRA subsequently requested that the OPP reverse its actions and issue corrected T4 tax slips for the applicant and other similarly situated disabled workers. The applicant characterizes the respondents' continued failure to do so as deliberate discrimination against disabled workers on WSIB leave.

[20] Although the applicant particularizes the claims of disability-based discrimination more fully in the Tribunal Application, the facts and issues raised in the Union Grievances substantially overlap with the facts and issues raised in the Tribunal Application.

Grievance LAB-2021-2016

[21] Grievance LAB-2021-2016 is a policy grievance under the Uniform and Civilian Collective Agreements (the "Collective Agreements").

[22] Grievance LAB-2021-2016 states that the employer acted unreasonably, arbitrarily, and/or in bad faith. Grievance LAB-2021-2016 references s. 10(6.1)(b) of the Public Service Pension Plan (the "PSPP") under the *Public Service Pension Act*, *1989*, Schedule 1, which pertains to employer contributions for LTIP-eligible members who are entitled to an unreduced pension and have at least thirty years of credits.

[23] Relying on *Ontario Public Service Employees Union v. Ontario (Government and Consumer Services)*, 2021 CanLII 19542 (ON GSB), Grievance LAB-2021-2016 asserts these provisions violate the Collective Agreements, the *Code*, and the *Canadian Charter of Rights and Freedoms*, Part 1 of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11 (the "*Charter*").

[24] Grievance LAB-2021-2016 requests that these provisions be struck from the PSPP immediately and not be applied to any OPPA member retroactively.

Grievance LAB-2021-2017

[25] Grievance LAB-2021-2017 concerns the calculation of NAE for OPPA members entitled to WSIB benefits under the Collective Agreements. It maintains that pension deductions are not to be included in the calculation of a member's NAE as set out in Article 9.05(c) of the Uniform Collective Agreement and Article 15.03 of the Civilian Collective Agreement.

[26] The OPPA seeks to have the proper calculation of NAE applied.

Grievance LAB-2021-2018

[27] Grievance LAB-2021-2018 concerns pension deductions for OPPA members who are concurrently entitled to both WSIB and LTIP benefits under the Collective Agreements.

[28] Grievance LAB-2021-2018 maintains that where a member is concurrently entitled to both WSIB and LTIP benefits, the OPP is required to make both the employee and employer pension contributions.

[29] Grievance LAB-2021-2018 further asserts that pension deductions are not to be included in calculating a member's Net Average Earnings (NAE), as set out in the Collective Agreements.

CONCLUSION

[30] In this case, the overlap between the Tribunal Application and the Union Grievances is direct and substantial.

[31] The Application challenges the respondent's use of LTIP pension provisions instead of WSIB provisions and the cessation of employer pension contributions. The Form 3 Reply asserts that the respondent's calculation of Net Average Earnings (NAE) was incorrect. These same issues are central to the Union Grievances.

[32] While the applicant argues that the Tribunal can grant more specialized remedies than those available in the grievance process, the availability or scope of remedies is not determinative of whether deferral is appropriate. As noted, grievance arbitrators have full jurisdiction to apply and interpret the *Code*.

[33] Allowing the Tribunal Application to proceed concurrently with the Union Grievances would risk inconsistent findings on the overlapping facts and issues. For these reasons, deferral remains the fairest, most just, and most efficient option.

[34] As noted in *Baghdasserians*, it is in the interest of the Tribunal and of any adjudicative body to have consistent decisions on facts and law. The risk of inconsistent findings of fact and law which would flow from allowing the Tribunal Application to proceed concurrently with the Union Grievances outweighs the prejudice arising from the delay.

[35] Following the conclusion of the Union Grievances, either party may request that the Application become reactivated by filing a Form 10 Request for Order during Proceedings. Under Rule 14.4, the Form 10 must be filed no later than 60 days after the conclusion of the other proceedings and must include a copy of the decisions or orders from the other proceedings. See Rules 14.3, 14.4 and 19 of the Tribunal's Rules of Procedure. However, the applicant should take note that, under section 45.1 of the *Code*, the Tribunal has the power to dismiss all or part of an application if the substance of the application has been appropriately dealt with in another proceeding.

ORDER

[36] The Application before this Tribunal is deferred pending the conclusion of the Union Grievances LAB-2021-2016, LAB-2021-2017, and LAB-2021-2018, commenced on or about November 15, 2021.

Dated at Toronto, this 12th day of February, 2026.
"Signed by"

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Alexandra Barthos
Member