



HUMAN RIGHTS TRIBUNAL OF ONTARIO

B E T W E E N:

Britney Lozza

Applicant

-and-

**Her Majesty the Queen in Right of Ontario as represented by the Ministry of
Community Safety and Correctional Services (Ontario Provincial Police)**

Respondent

INTERIM DECISION

Adjudicator: Bruce Best

Date: December 11, 2018

File Number: 2017-29111-I

Citation: 2018 HRT0 1768

Indexed as: **Lozza v. Ontario Provincial Police**

APPEARANCES

Britney Lozza, Applicant	)	
	)	Self-represented
	)	
Her Majesty the Queen in Right of Ontario	)	
as represented by the Ministry of	)	Jordana Joseph, Counsel
Community Safety and Correctional	)	
Services (Ontario Provincial Police),	)	
Respondent	)	
	)	

[1] This Application was filed under s.34 of the *Human Rights Code*, R.S.O. 1990, c.H.19, as amended (the “Code”).

[2] By Case Assessment Direction (“CAD”), the Tribunal directed that a summary hearing be held under Rule 19A of the Tribunal’s Rules of Procedure to determine whether the Application should be dismissed on the basis that there is no reasonable prospect that it would succeed. The summary hearing was held by conference call on October 9, 2018.

[3] For the purposes of a summary hearing, the applicant’s version of events is assumed to be true. The applicant alleges that, on several occasions where she had interactions with police officers, that despite conveying that she identified as female, one or more of the officers reacted negatively, still referred to her as male in their written reports, and otherwise failed to acknowledge or recognize her gender identity. For example, in one incident she alleges that an officer had a “sour look” on his face after learning the applicant was transgendered.

[4] The respondent disputes the applicant’s version of events. For example, it claims that the applicant had not in fact corrected the officers when they referred to her by her previous name, that she provided her driver’s licence with what was, at the time, her legal gender, and that the references in the officer’s notes were reflecting the applicant’s legal name, or were references to the names used to refer to her by others, including family members. In general, it denies that the applicant was treated in any way that could be found to be discriminatory or unprofessional.

DECISION

[5] I cannot find at this point that the Application has no reasonable prospect of success. There are a number of facts in dispute around the incidents, such as whether the applicant informed the officers of her gender identity or preferred name, and with respect to the reaction of officers when she raised issues of her preferred gender identity during the incidents in question. These will largely be issues of credibility, and it

is not clear to me at this point that, if the applicant's version of events is ultimately found to be true, that the application has no reasonable prospect of success.

[6] The fact that I am declining to dismiss the Application at this point is, however, not meant to indicate that I consider the Application is likely to succeed, but simply that the allegations made by the applicant, if her version of facts is accepted by the Tribunal, cannot be said to have no reasonable prospect of success. These issues, however, can only be determined after hearing the evidence of the parties.

[7] The parties shall advise the Tribunal within 14 days whether they are willing to attempt to resolve the issues in the Application through mediation. If the parties agree, a mediation will be scheduled. If not, the matter will be scheduled for a hearing in the normal course.

[8] I am not seized.

Dated at Toronto, this 11th day of December, 2018.

"Signed by"

Bruce Best
Vice-chair