

# The Ontario Human Rights Tribunal – Is There An Appetite For Costs Awards?



No client likes to have a human rights application brought against it before the Ontario Human Rights Tribunal. And no client is happy to hear that even if it is successful and fully exonerated, there is no real scope for recovering legal costs incurred in defending the application. What may just be an unhappy cost of doing business for organizations is even more problematic for individual Respondents however, as they may be saddled with large legal bills and have no real recourse against the Applicant. This can be particularly problematic under the current human rights scheme in Ontario, where Applicants can bring forward complaints without incurring the cost of retaining legal counsel or paying any filing fees, and without any screening of the legitimacy of the complaint by the Tribunal. In relation to the awarding of costs, however, the situation may be about to change.

Bill 147, *Human Rights Code Amendment Act (Awarding of Costs)*, 2013 (“Bill 147”) is a Private Member’s bill brought forward by Randy Hillier, a Progressive Conservative MPP. Bill 147 would amend the Ontario *Human Rights Code* to permit the Tribunal to order costs in favour of a successful party, either by way of fixing costs or assessing costs. Given that Bill 147 is a Private Member’s bill brought by the a member of the Official Opposition, ordinarily it would stand little chance of being enacted into law. That said, Bill 147 passed First Reading in the Ontario Legislature in December 2013, so there is clearly some appetite by the Government to consider this issue.

Even if Bill 147 is ultimately passed, the Tribunal may be hesitant to make adverse costs awards against individuals or those with limited means. That said, there will at least be the prospect that a Respondent falsely accused of discrimination or harassment will have some degree of recourse. Of course, it also means that a successful Applicant can seek to recover costs against a Respondent found in violation of the Code.

Bill 147 has not yet progressed beyond First Reading. Bill 147 can be reviewed at the following link.

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Article by Catherine Coulter