



Civil Resolution Tribunal

Date Issued: January 30, 2025

File: SC-2023-000835

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Singh v. Okanagan National Alliance*, 2025 BCCRT 141

BETWEEN:

HARSHDEEP SINGH

APPLICANT

AND:

OKANAGAN NATIONAL ALLIANCE, DAVID LEROUX, and PAULINE
TERBASKET

RESPONDENTS

REASONS FOR DECISION

Tribunal Member:

Christopher C. Rivers, Vice Chair

INTRODUCTION

1. This dispute is about wrongful termination. Okanagan Nation Alliance (ONA) hired Harshdeep Singh as a social worker in late August 2022. In mid-December 2022, while at a Christmas party, he was introduced to ONA Executive Director Pauline

Terbasket by human resources manager David Leroux.¹ Mr. Singh made a comment he says was a joke that had been confused about her role. The next day, ONA terminated Mr. Singh's employment for workplace harassment.

2. Mr. Singh says he was honestly mistaken, as Pauline Terbasket had been at the front desk on his first day at ONA and helped him to get keys to an ONA fleet vehicle, so he had misunderstood her position. He says ONA then failed to follow its own human resources policy and that he experienced mental harassment and suffering because of his termination. Mr. Singh claims \$5,000 in damages.
3. The respondents say Mr. Singh made up a story after the incident to justify his comments. They say ONA conducted an internal investigation and reasonably chose to terminate Mr. Singh with cause. While not admitting fault, they also say that they paid Mr. Singh the equivalent of one month's pay after termination. They ask me to dismiss his claims.
4. Mr. Singh represents himself. Pauline Terbasket represents themselves and ONA. David Leroux represents themselves.
5. For the reasons that follow, I dismiss Mr. Singh's claim.

JURISDICTION AND PROCEDURE

6. The Civil Resolution Tribunal has jurisdiction over small claims brought under *Civil Resolution Tribunal Act* (CRTA) section 118. CRTA section 2 states that the CRT's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly. In resolving disputes, the CRT must apply principles of law and fairness, and recognize any relationships between the dispute's parties that will

¹ The CRT has a policy to use inclusive language that does not make assumptions about a person's gender. As part of that commitment, the CRT asks parties to identify their titles and pronouns to ensure the CRT respectfully addresses them throughout the process, including in published decisions. Neither Pauline Terbasket nor David Leroux provided their title or pronouns, so I will refer to them by their full names in this decision and use gender neutral pronouns, intending no disrespect.

likely continue after the CRT process has ended. These are the CRT's formal written reasons.

7. CRTA section 39 says the CRT has discretion to decide the hearing's format, including by writing, telephone, videoconferencing, email, or a combination of these. Here, I find that I am properly able to assess and weigh the documentary evidence and submissions before me. Further, bearing in mind the CRT's mandate that includes proportionality and a speedy resolution of disputes, I find that an oral hearing is not necessary in the interests of justice.
8. CRTA section 42 says the CRT may accept as evidence information that it considers relevant, necessary, and appropriate, whether or not the information would be admissible in court.

Preliminary Issue - Parties

9. Mr. Singh brought his claim against not only his former employer, ONA, but also Pauline Terbasket and David Leroux in their personal capacities. Typically, officers, directors, and employees of corporations are not personally responsible or legally liable unless they commit a wrongful act independent from that of the corporation.
10. However, ONA is apparently a society, not a corporation. Since I dismiss Mr. Singh's claim below on other grounds, it is not necessary for me to consider whether Pauline Terbasket or David Leroux would be personally liable for damages as a director and employee of ONA, respectively.

Preliminary Issue – Nature of the Claim

11. Mr. Singh brought his claim for mental harassment and suffering during his termination. He did not specifically claim damages for wrongful dismissal itself.
12. First, I note there is no recognized tort of harassment in British Columbia. This extends to mental harassment.

13. Next, to the extent Mr. Singh claims damages for mental anguish or suffering, I note such damages are a form of non-pecuniary damages. I may grant non-pecuniary damages for intangible losses, like pain, suffering, loss of enjoyment, and mental anguish. However, none of his evidence speaks to his mental suffering. His evidence, instead, focuses on whether ONA followed its internal discipline policies in his termination.
14. Similarly, the respondents' arguments addressed whether Mr. Singh's termination was justified and whether ONA followed its policies.
15. Since the parties presented their arguments on that basis, I find the actual issue before me is whether Mr. Singh is entitled to damages for wrongful dismissal and there is no prejudice in me addressing this dispute on that basis. Further, since Mr. Singh's claim is not for entitlement under the *Employment Standards Act*, I have jurisdiction to address this under common law for breach of contract.

ISSUES

16. The issues in this dispute are whether ONA wrongfully dismissed Mr. Singh, and if so, what damages, if any, it must pay him,

EVIDENCE AND ANALYSIS

17. In a civil proceeding like this one, Mr. Singh, as applicant, must prove his claims on a balance of probabilities. I have read all the parties' submissions and evidence but refer only to the evidence and argument that I find relevant to provide context for my decision. Despite having the opportunity to do so, Mr. Singh did not make any final response submissions.
18. On August 12, 2022, ONA hired Mr. Singh as a Family Decision Making Coordinator to backfill for a maternity leave, beginning August 30. His responsibilities were those of a social worker. He successfully completed a 3-month probationary period and there is no suggestion he received discipline during that period.

19. On December 14, 2022, at the ONA Christmas party, David Leroux introduced Mr. Singh to the ONA Executive Director, Pauline Terbasket. Pauline Terbasket stated their name and position and extended their hand to Mr. Singh, who took it, and said “Oh, I thought you were the secretary.”
20. The situation was immediately awkward. Pauline Terbasket walked away, followed shortly by David Leroux. The next day, ONA terminated Mr. Singh. It described its reasoning as follows:

The demeaning remark leveled at the highest authority within the ONA and the severity thereof, constituted gross insubordination, did not warrant progressive discipline, and justified termination of the employee in this maternity backfill arrangement.

21. In submissions, Mr. Singh says his mistake was honest. He says on his first day at ONA, he met Pauline Terbasket at the front desk, and they helped him obtain keys for the fleet vehicle. Mr. Singh says they were not introduced to him as the Executive Director, and so he assumed Pauline Terbasket was the front desk administrator. He believed Pauline Terbasket would remember their interaction, but since they did not, took his comments as misogynistic insult. Pauline Terbasket denies the parties had previously met at the front desk as Mr. Singh says.
22. In its response submissions, ONA says in addition to Mr. Singh’s final paycheque, it paid him one month’s pay after termination on “compassionate” grounds and on a non-precedent setting basis. It provided evidence showing it paid Mr. Singh \$3,732.93, after taxes and a \$330 deduction for a travel advance. A notation on the evidence says “severance payout,” so I find it was intended as such.
23. Since Mr. Singh did not respond, I accept both that ONA paid him this amount and that he owed the \$330 travel advance deduction. Other than saying it provided the advance compassionately, ONA does not suggest that it was intended as a final settlement of Mr. Singh’s claims. There is no evidence Mr. Singh agreed this was the appropriate amount or that the parties entered into settlement discussions.

Wrongful Dismissal

24. So, was Mr. Singh wrongfully dismissed? If an employer shows just cause, it may dismiss an employee without notice or pay in lieu of notice.² Just cause is conduct that is seriously incompatible with the employee's duties, goes to the root of the employment contract and fundamentally strikes at the employment relationship. Put another way, the test for just cause is whether the employee's misconduct amounts to an irreparable breakdown in the employment relationship.³
25. While I find the remark was undoubtedly awkward and ill-advised, I find ONA has not proven it amounted to an irreparable breakdown in the employment relationship.
26. While I am unable to determine whether the incident at the front desk occurred as Mr. Singh says, there is no suggestion that he exhibited misogynistic behaviour before the incident at the Christmas party. Similarly, ONA does not say that it gave Mr. Singh an opportunity to explain himself, to apologize, or to otherwise account for his remark prior to terminating him, including considering his proffered explanation. While David Leroux says Mr. Singh should have immediately noticed the impact of his comment and apologized, nobody explicitly commented on the remark in the moment, and Mr. Singh says he was unaware he had caused offence.
27. Further, I find ONA had an obligation to abide by its own workplace harassment policy, which is in evidence. In defending its action, ONA referred to Mr. Singh's comments as misogynistic and discriminatory. I find these allegations are consistent with its policy definition of workplace harassment, which includes an incident where a party makes unwelcome comments concerning a person's race, colour, or sex, all of which may apply here.
28. Under the heading "Make a Report," the ONA Executive Director or Financial Administrator is obligated to undertake an investigation and keep notes of those conversations. There are no such notes before me.

² See: *Panton v. Everywoman's Health Centre Society (1988)*, 2000 BCCA 621 at paragraph 24.

³ See: *McKinley v. BC Tel*, 2001 SCC 38, *Steel v. Coast Capital Savings Credit Union*, 2015 BCCA 127 at paragraphs 27 to 28.

29. Similarly, under the heading “Investigation,” ONA is required to investigate, including interviews with the complainant, the alleged harasser, and any witnesses. Other than a bare statement that “an internal investigation was completed,” ONA provided no detail about how it met its policy obligations. It does not say who performed the investigation or what steps they took. While ONA says it conducted an internal investigation and found Pauline Terbasket had “never laid eyes” on Mr. Singh before, it did not provide any documents from that investigation.
30. Given the absence of other incidents and ONA’s failure to apparently follow its own policy, I find Mr. Singh has proved he was wrongfully terminated by ONA.

Remedy

31. Under the common law, when an employee is terminated without reasonable notice, they are entitled to damages equal to what they would have earned during the notice period.⁴ Reasonable notice is based on factors such as Mr. Singh’s age, the type and length of employment, and the availability of similar employment in terms of responsibility, training, and compensation⁵.
32. However, I find Mr. Singh has not proved he is entitled to any further damages for his dismissal.
33. When terminated, Mr. Singh had been employed by ONA for only 3.5 months. His term was presumptively time-limited, ending when the job holder returned from maternity leave, though his written offer of employment noted extensions were possible. I do not have evidence of Mr. Singh’s age, skills, or ability to find other employment.
34. As the applicant, Mr. Singh is responsible for providing all necessary evidence to support his case. Given the relatively brief length of his employment, its presumptively

⁴ See: *Matthews v. Ocean Nutrition Canada Ltd.*, 2020 SCC 26 at paragraph 59.

⁵ See *Frederiks v. Executive TFN Waterpark Limited Partnership*, 2022 BCSC 1725.

time-limited nature, and overall lack of evidence otherwise, I find one month's pay, less the travel deduction, is reasonable notice.

CRT Fees and Dispute-Related Expenses

35. Under CRTA section 49 and the CRT rules, the CRT will generally order an unsuccessful party to reimburse a successful party for CRT fees and reasonable dispute-related expenses. I see no reason in this case not to follow that general rule. I dismiss Mr. Singh's claim for CRT fees. No respondent paid any CRT fees nor claimed any dispute-related expenses, so I order none.

ORDER

36. I dismiss Mr. Singh's claims and this dispute.

Christopher C. Rivers, Vice Chair