

CITATION: Mehedi v. George Brown College and Steven Bartlett, 2013 ONSC 1343
DIVISIONAL COURT FILE NO.: 458/12
DATE: 20130304

ONTARIO
SUPERIOR COURT OF JUSTICE
DIVISIONAL COURT
THEN R.S.J., SWINTON AND NORDHEIMER JJ.

BETWEEN:)
)
GOLAM MEHEDI) *In Person*
)
Applicant)
)
– and –)
)
GEORGE BROWN COLLEGE and) *Kimberly D. Pepper*, for the Respondent,
STEVEN BARTLETT) George Brown College
)
Respondents) *Brian A. Blumenthal*, for the Respondent,
) Human Rights Tribunal of Ontario
)
)
) **HEARD at Toronto:** March 4, 2013

NORDHEIMER J. (ORALLY)

[1] The applicant seeks judicial review of the decision of the Human Rights Tribunal of Ontario dated March 7, 2012 in which the Tribunal dismissed the applicant’s complaint on the basis that there was no reasonable prospect that his human rights complaint could succeed.

[2] The Applicant used to be enrolled as a student at George Brown College. In the fall of 2009, the Applicant made a complaint to the College’s human rights office regarding the conduct of another student. The applicant’s dissatisfaction with the College’s response to his complaint lead him, in turn, to file a complaint with the Human Rights Tribunal on February 2, 2010. In

addition, in July 2010, the applicant started a civil action against the College, in which the student was eventually included as a party.

[3] Following a mandatory mediation session arising from the civil proceeding, the Applicant and Respondents settled both the civil action and the human rights application. Formal minutes of settlement dated July 4, 2011 were signed. The settlement provided that the College would pay the plaintiff \$10,800 as damages and reimbursement for legal expenses and the College would bear the costs of the mandatory mediation session. The applicant agreed to the dismissal of all proceedings.

[4] On July 11, 2011, the Applicant signed the necessary documents to dismiss the human rights proceeding and the civil action. On the same day, he received a cheque for \$10,800 from the College which, I note, he immediately cashed. There is no dispute that the College paid the mediator.

[5] On July 26, 2011, the Applicant filed the present application to the Human Rights Tribunal. In that application, he contended that the College had contravened the settlement and sought to have it reopened. In particular, he sought an additional \$5,000 in compensation as well as \$2,700 to cover additional legal fees.

[6] On August 9, 2011, the Tribunal issued a Case Assessment Direction directing that a summary hearing should be held to determine whether the application should be dismissed on the basis that there was no reasonable prospect that it would succeed. By order dated March 7, 2012, an adjudicator dismissed the application on that basis.

[7] In terms of this application for judicial review, I begin by stating that the test for this application is whether the decision of the Tribunal was reasonable in the circumstances. In that regard, I note that the issues involved are ones that fall within the ambit of the Tribunal's right to govern its own process.

[8] It is important to remember that the issue in this application is not the merits of the original complaint. Rather, it is whether the Tribunal acted reasonably in determining that there

was no basis upon which the applicant could establish a contravention of the settlement agreement.

[9] In that regard, the applicant does not dispute that he signed the minutes of settlement. There is no suggestion that he did not receive the benefits provided for under the settlement. There is no dispute that he signed the documents necessary to have the civil action and the human rights complaint dismissed.

[10] Rather, the applicant now takes a two pronged attack against the settlement. In his written material, the applicant asserted that the settlement was obtained by fraud. However, the applicant failed to provide any evidence either before the Tribunal or before us that would substantiate that assertion. Indeed, it is virtually impossible on the material that the applicant has filed to discern what the College did or did not do that could possibly constitute fraud.

[11] The second prong of the attack was advanced by the applicant in his oral submissions. In those submissions, the applicant asserted that he was under pressure at the mediation, he did not understand what was going on and that he thought that the mediator was biased. However, as the Tribunal noted in its reasons for decision on this point:

The applicant acknowledged signing the 2011 Settlement. While at first he indicated that he felt he had no choice but to sign, he also stated in response to a question that if had been really unhappy with the settlement, he could have chosen not to sign.

[12] In the end result, at the time that the settlement was reached, the applicant knew his situation and he knew the losses that he claimed that he suffered through the actions of the College. With that knowledge in mind, he accepted a certain sum of money in settlement of his claims. He seems to feel that he is now entitled to return before the Human Rights Tribunal and ask for more under the guise that the settlement has been contravened. He is not. The matter was concluded by the settlement. No contravention of the settlement has been demonstrated. The Human Rights Tribunal was correct in finding that there was no basis upon which the

settlement could be revisited and thus no basis upon which the applicant's current complaint could possibly succeed.

[13] The application for judicial review is dismissed.

COSTS

THEN R.S.J

[14] I have endorsed the Application Record as follows: "This application is dismissed for oral reasons on behalf of the Court delivered by Nordheimer J. In our view, costs to the respondent George Brown College in the amount of \$2,500 all inclusive are fair and reasonable in all the circumstances. The respondent Tribunal does not seek costs and none are awarded."

NORDHEIMER J.

THEN R.S.J.

SWINTON J.

Date of Reasons for Judgment: March 4, 2013

Date of Release: March 8, 2013

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BETWEEN:

GOLAM MEHEDI

Applicant

– and –

GEORGE BROWN COLLEGE and STEVEN
BARTLETT

Respondents

ORAL REASONS FOR JUDGMENT

NORDHEIMER J.

Date of Reasons for Judgment: March 4, 2013

Date of Release: March 8, 2013