

CITATION: Ashar v. Ontario Labour Relations Board, 2026 ONSC 813
DIVISIONAL COURT FILE NO.: DC-25-00000546-00JR
DATE: 20260210

**SUPERIOR COURT OF JUSTICE – ONTARIO
DIVISIONAL COURT**

RE: PARESH C. ASHAR

AND:

ONTARIO LABOUR RELATIONS BOARD

BEFORE: Justice O’Brien

COUNSEL: P. Ashar, Self-Represented

HEARD: In-writing

ENDORSEMENT

[1] This endorsement provides my reasons for dismissing this judicial review application pursuant to r. 2.1.01 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194.

[2] Mr. Ashar seeks to judicially review an order of the Ontario Labour Relations Board dated June 24, 2025. Mr. Ashar had brought an application before the Board alleging unlawful reprisal under the *Occupational Health and Safety Act*, R.S.O. 1990, c. O.1. In a decision dated June 20, 2025, the Board dismissed Mr. Ashar’s request for default judgment with respect to his Board application. Mr. Ashar had asked that the Board grant default judgment because the responding party had not filed a response, as permitted by Board directions dated May 26, 2025.

[3] Those directions addressed whether the application should be dismissed for failure to plead a *prima facie* case. The Board concluded two allegations met the minimum threshold for pleading a *prima facie* case and were the only allegations that had not been disposed of by an application before the Human Rights Tribunal of Ontario. It allowed the responding party an opportunity to respond to the two allegations.

[4] The Board dismissed Mr. Ashar’s request for default judgment because although the responding party did not file a response to the Board’s directions, it had earlier filed a response to the application. In its June 24, 2025 decision, the Board dismissed Mr. Ashar’s request for reconsideration of the June 20, 2025 decision.

[5] During the case management process, the court issued directions raising the concern that the application was frivolous, vexatious, or an abuse of process of the court and asking the Registrar to issue a notice under r. 2.1. The case management directions, which were provided to

the parties with the r. 2.1 notice, asked Mr. Ashar to address the following concerns in his r. 2.1 submissions:

1. The decision Mr. Ashar seeks to review appears to be an interim decision of the Board. The Board denied Mr. Ashar's request to reconsider its decision to dismiss his request for default judgment. This means the Board proceedings will continue to the next step, presumably to a substantive hearing on the merits.
2. Absent exceptional circumstances, the court will not intervene on judicial review in an ongoing administrative proceeding: *Awada v. Allstate*, 2021 ONSC 8108.
3. There do not appear to be exceptional circumstances that would warrant the court's intervention at this stage of the Board's proceeding.
4. If Mr. Ashar is ultimately unsuccessful before the Board, it will be open to him to file an application for judicial review of the Board's final decision.

[6] Mr. Ashar filed responding submissions in which he argued that the application should be permitted to proceed because the circumstances were exceptional. He stated that the Board had declined to give effect to "undisputed service" and failed to move his matter forward "despite clear defaults." He submitted dismissing his application under r. 2.1 would unfairly prejudice him while rewarding procedural delay and would deprive him of the opportunity for judicial oversight. Mr. Ashar underscored that his application was brought in good faith.

[7] For the following reasons, I find the application for judicial review should be dismissed.

[8] Rule 2.1.01 allows the court to stay or dismiss a proceeding where it appears on its face to be frivolous, vexatious, or otherwise an abuse of the process of the court. The application of r. 2.1 is "limited to the clearest of cases where the abusive nature of the proceeding is apparent on the face of the pleading and there is a basis in the pleadings to resort to the attenuated process": *Scaduto v. The Law Society of Upper Canada*, 2015 ONCA 733, [2015] O.J. No. 5692, at para. 8; *Mohammad v. McMaster University*, 2023 ONCA 598, [2023] O.J. No. 3997, at para. 6.

[9] The rule "must be interpreted robustly so that a motion judge can effectively exercise his or her gatekeeping function to weed out litigation that is clearly frivolous, vexatious, or an abuse of process": *Scaduto*, at para. 8; *Visic v. Elia Associates Professional Corporation*, 2020 ONCA 690, at para. 8.

[10] I accept that Mr. Ashar has not brought his application in bad faith. However, his application is patently premature. The decision he seeks to have reviewed is an interim decision of the Board. The Board dismissed Mr. Ashar's request that he be granted default judgment. In its May 26, 2025 directions, it had said that a "Consultation hearing" would be scheduled to deal with the remaining allegations that had not been dismissed. The Board therefore will proceed to deal with the allegations it has permitted Mr. Ashar to pursue. If Mr. Ashar ultimately is dissatisfied with the decision of the Board at the conclusion of its proceedings, he can seek to judicially review the Board's final decision, which can include the procedural steps leading to that decision.

[11] Absent exceptional circumstances, courts should not interfere in ongoing administrative proceedings until after they are completed or until effective remedies are exhausted. This is a principle “scrupulously” followed in this court to avoid the fragmentation of proceedings: *Awada*, at paras. 7-9.

[12] Mr. Ashar believes the court should intervene because the Board should not have allowed the responding party to continue to participate in his application since it did not respond to Board directions. But the Board found the responding party had already submitted a response to the application, so there was no basis for default judgment. In any event, the Board’s decision to allow an application to proceed to a decision on the merits in the face of a request for default judgment does not on its own constitute exceptional circumstances.

[13] Mr. Ashar has raised a concern about access to judicial oversight. As I have said, that will be available to him at the completion of the Board process. The court will not intervene at this stage of the Board’s proceeding. The application is doomed to fail and therefore is dismissed pursuant to r. 2.1.01.

O’Brien J

Date: February 10, 2026