

CITATION: Wang v. 1355844 Ontario INC. o/a Korean Grill House, 2026 ONSC 2788
DIVISIONAL COURT FILE NO.: 120/25
DATE: 20260513

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

RE: DANIEL WANG, Applicant

AND:

1355844 ONTARIO INC. o/a KOREAN GRILL HOUSE and HUMAN RIGHTS
TRIBUNAL OF ONTARIO, Respondents

BEFORE: D.L. Corbett, Emery and Faieta JJ.

COUNSEL: *Mr Wang*, self-represented

Michael Robson, for Korean Grill House

Sabrina Fiacco, for the HRTO

HEARD at Toronto: September 25, 2026

ENDORSEMENT

D.L. Corbett J.

[1] Mr Wang applies for judicial review of the Decision of Adjudicator Harnum of the Human Rights Tribunal of Ontario (“HRTO”) dated January 27, 2025 (2025 HRTO 212) and the Reconsideration Decision of Adjudicator Harnum dated February 7, 2025 (2025 HRTO 348), dismissing a complaint of reprisal or threat of reprisal asserted against the respondent 1355844 Ontario Inc. (“Korean Grill House”).

[2] Decisions of the HRTO are final and not subject to appeal. This court has jurisdiction to hear an application for judicial review from decisions of the HRTO pursuant to ss. 2(1) and 6(1) of the *Judicial Review Procedure Act*, RSO 1990, c. J.1. The presumptive standard of review in this court is reasonableness: *Vavilov*, 2019 SCC 65, paras. 8-12.

[3] The HRTO dismissed the complaint on the basis that it is not within the jurisdiction of the Tribunal. The HRTO gave notice to the Applicant of this issue and gave him an opportunity to make written submissions. The HRTO did not hold an oral hearing on the basis that none is required where the issue concerns the Tribunal’s jurisdiction. The Tribunal was correct on this point: *Iyirhiaro v. Human Rights Tribunal of Ontario and TTC*, 2012 ONSC 3015 (Div. Ct.).

[4] The HRTO noted that the Applicant's complaint is brought pursuant to s. 8 of the *Ontario Human Rights Code*, RSO 1990, c. H.19, which provides:

Every person has a right to claim and enforce his or her rights under this Act, to institute and participate in proceedings under this Act and to refuse to infringe the right of another person under this Act, without reprisal or threat of reprisal for so doing.

[5] The Tribunal then summarized the elements necessary for finding a claim of reprisal, as follows (following *Noble v. York University*, 2010 HRTO 878):

- (a) An action taken against or a threat made to the complainant;
- (b) The alleged action or threat is related to the complainant having claimed, or attempted to enforce a right under the *Code*;
- (c) An intention on the part of the respondent to retaliate for the claim or attempt to enforce the right.

[6] I see no reviewable error in this statement of the applicable statutory provision or legal test for a claim of reprisal.

The Applicant's Human Rights Claim

[7] The Applicant says that he was an employee of the Korean Grill House in 2014-15. He says that during this time, Korean Grill House assigned work shifts in a discriminatory manner by giving daytime shifts to older women, and giving late shifts to younger employees, such as the Applicant.

[8] The Applicant did not initiate a claim at the HRTO respecting the events in 2014-15 at the time of the alleged discriminatory shift assignments, nor did he seek to bring such a claim to the HRTO at any subsequent time (the deadline to bring such claims has long since passed: *Code*, s. 34(1)).

[9] In December 2022, the Applicant posted an online negative review of Korean Grill House's business, saying:

Manager assigns kids weekend night shifts from 10pm to 2am to wash grills because they are kids whereas Cantonese speaking women get morning shifts instead.

[10] In response to this review, Korean Grill House's counsel wrote a "cease and desist letter" to the Applicant, threatening civil legal proceedings.

[11] The HRTO found that counsel's letter satisfied the first branch in the test for a reprisal claim: it is a threat made to the Applicant by Korean Grill House's agent. However, the HRTO

found that the second and third branches of the test could not be satisfied on the Applicant's account of the facts. In particular, the HRTO found:

- (a) "... there is nothing to demonstrate that the online review was in any way connected to the appellant claiming or enforcing a right under the *Code*" (Decision, para. 10)
- (b) There is no evidence that Mr Wang "[made] a complaint, [filed] an application or otherwise pursued any remedy under the *Code*" (Decision, para. 10)
- (c) There was no basis on which the Tribunal could reasonably conclude that "the applicant was attempting to claim or enforce a right under the *Code*" (Decision, para. 10)

[12] On the basis of these findings, all of which are reasonable and available on the record before the Tribunal, the Tribunal concluded:

There can be no intention on the part of the respondent to retaliate for an applicant having claimed or attempted to enforce a right under the *Code* if the applicant never claimed or attempted to enforce a right under the *Code*.

[13] On reconsideration, the Applicant argued that the Tribunal applied an unduly narrow interpretation. He submitted "that the Tribunal failed to recognize that by simply raising an objection to discriminatory or harassing conduct an individual can be found to be claiming or enforcing a *Code* right" (Reconsideration Decision, para. 6). The Tribunal did not accept this argument and declined to exercise its discretion to reconsider its decision.

[14] The Applicant essentially repeats to this court the arguments he made to the Tribunal. He argues that "calling out" discrimination, as he submits that he did, is a means of enforcing *Code* protections and is covered by the anti-reprisal provisions of the *Code*. I would not accept this argument, for multiple reasons.

- (a) The anti-reprisal provisions protect access to the Human Rights Tribunal to pursue claims under the *Code*. They do not protect public speech that is not connected with a claim to the Tribunal under the *Code*.
- (b) To hold otherwise would permit wanton, vexatious, baseless allegations of socially deleterious conduct without civil recourse for those so maligned. The law of defamation includes multiple layers of protection of free speech but does not completely insulate a speaker from the consequences of maligning another person.
- (c) Even where a claimant has pursued a claim to the Tribunal, that does not afford that claimant the right to assert their claims outside the Tribunal process with impunity. See *Hill v. Church of Scientology of Toronto*, [1995] 2 SCR 1130, where words alleged in a Statement of Claim were covered by absolute privilege, but where those same words, read from the statement of claim to a press conference outside the courthouse, were not protected by the privilege and were actionable.

[15] The Tribunal reasonably found that there was no factual basis for a reprisal claim: the threat of litigation was solely in response to the Applicant's public statements outside the process of asserting a claim to the Tribunal, and not a reprisal for "claim[ing] and enforc[ing] [the Applicant's] rights under this Act, to institute and participate in proceedings under this Act..."

[16] The Applicant also argued that he had some sort of duty to speak up, to prevent continuing discrimination to others still in the employ of Korean Grill House, and thus the cease and desist letter was threatened reprisal for "refus[ing] to infringe the rights of another." This argument is, obviously, without merit, and verges on being tendentious.

[17] The Tribunal's decision is reasonable; the application for judicial review is dismissed.

[18] The Applicant shall pay partial indemnity costs to the respondent Korean Grill House fixed at \$3,900, inclusive, payable within thirty days. There shall be no costs payable to or by the HRTO.

"D.L. Corbett J."

I agree: "Emery J."

I agree: "Faieta J."

Released: May 13, 2026