



Instructions

Use this form if you think that a dismissal application under s. 27(1) of the *Human Rights Code* would promote a more fair and timely resolution of the complaint than going directly to a hearing.

Deadline for filing and disclosure

You must file this form within the deadline the Tribunal set in its letter to the parties about disclosure and next steps, or within 14 days of new information or circumstances coming to your attention that forms the basis for dismissal under s. 27(1) of the *Code*.

Before you apply to dismiss a complaint, you must [complete document disclosure](#). You can also [apply to do disclosure later or limit the disclosure that you need to do now](#).

General instructions

This form has 7 steps. Complete each applicable step.

You may attach up to **1 extra page** or, if you do not use the space on this form, **3 pages**.

Print clearly. Use a black or blue pen.

You must send a copy of this form to any other party.

Information about case paths

The Tribunal's process is meant to be a fair and timely way to resolve human rights complaints. Most complaints resolve by agreement between the parties, usually after mediation. The Tribunal can make a final decision to resolve a complaint in two main ways:

1. Hearing of the complaint

A hearing of the complaint is usually by video or in person. Each party presents their case through their witnesses and documents. Each party has a chance to question the other parties' witnesses. This is called cross-examination.

The length of the hearing depends on factors like the number of allegations in a complaint, and the number of witnesses and documents. A Tribunal Member decides if the complaint is proven and, if so, orders a remedy.

2. Application to dismiss all or part of a complaint without a hearing

Section 27 of the *Human Rights Code* allows the Tribunal to dismiss all or part of a complaint without a hearing. Section 27 lists the reasons when a hearing may not be required. These reasons are called "grounds for dismissal".

[Information Sheets](#) on the Tribunal website describe the legal tests for dismissing a complaint. Step 2 identifies the most common grounds for dismissing a complaint.

If the Tribunal does not dismiss the whole complaint under section 27, then the complaint must go to a hearing.

Information about this form

This form gives the Respondent a chance to explain why a dismissal application would promote a more fair and timely resolution of the complaint than going directly to a hearing. Whether it would promote a more fair and timely resolution will depend on factors like:

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- whether the Respondent identified an arguable ground for dismissal and the evidence they would file to support that ground. For example:
 - the Tribunal may allow the respondent to argue that the Tribunal has no jurisdiction over the complaint if it identifies the reasons and evidence showing that it is federally regulated;
 - the Tribunal will not allow a respondent to argue that the complaint has no reasonable prospect of success if there is a foundational issue of credibility that requires a hearing.
- how a dismissal application might affect the complaint process. For example, the Tribunal may consider whether:
 - a dismissal application would avoid a long hearing or reduce the length or complexity of a hearing;
 - a short hearing may use less resources to resolve a complaint; or
 - the application would affect a hearing that is already scheduled.
- other factors like whether a party has barriers to a written process.



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Tribunal stamp

Who is making this request?

Name of respondent:

If you receive this form: You do not need to do anything now. The Tribunal will send you a letter about next steps.

Person completing this form if different from above:

Legal name – First name:	Legal name – Last name:
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Complaint this form is about:

Complainant's name:	Tribunal case number:
Respondent name(s):	

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Step 1 – Identify applicable deadline

Check the deadline that applies:

<input type="checkbox"/> I am filing this form within the deadline the Tribunal set in its letter to the parties, or agreed to extend – complete steps 2-5 and 7
<input type="checkbox"/> I am filing this form within 14 days of learning new information or circumstances that forms the basis for a dismissal application — complete steps 2–7

Step 2 – Identify grounds for dismissal

Select the grounds for dismissal that you want to rely on:

<input type="checkbox"/> The Tribunal does not have jurisdiction over all or part of the complaint: s. 27(1)(a)
Select the reason you say the Tribunal does not have jurisdiction:
<input type="checkbox"/> the complaint involves a federally regulated matter
<input type="checkbox"/> the complaint does not have a sufficient connection to B.C.
<input type="checkbox"/> other: _____

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The complaint has no reasonable prospect of success at a hearing: s. 27(1)(c)

Do not select this ground if there are foundational or key issues of credibility in the complaint. These issues require a hearing. These issues arise when the parties disagree about important facts and the Tribunal needs to decide who to believe about those facts to resolve the case.

Select the reason you say the complaint has no reasonable prospect of success:

The Complainant has no reasonable prospect of proving (select only those applicable):

they have a protected characteristic protected under the *Human Rights Code*

they experienced an adverse impact in a protected area

their personal characteristic was a factor in the adverse impact

in a retaliation complaint, the Respondent knew about the actual or possible complaint and engaged in the kind of conduct listed in section 43 of the *Code*

in a retaliation complaint, there is a sufficient connection between the Respondent's conduct and an actual or possible complaint

The Respondent is reasonably certain to prove that any adverse impacts connected to a protected characteristic are justified.

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The complaint should not proceed against individual Respondents: s. 27(1)(d)(ii)

The Respondent organization must confirm each of the following:

- it is responsible for the individual's conduct alleged in the complaint
- it can and will fulfil any remedies that the Tribunal might order
- it can explain why proceeding with the complaint against the individual would not further the purposes of the *Human Rights Code*

The parties have settled the complaint: s. 27(1)(d)(ii) - Attach any settlement agreement.

The Respondent made a reasonable settlement offer: s. 27(1)(d)(ii)

Attach the settlement offer and confirm that:

- it is marked "with prejudice"
- it remains open even if the Tribunal dismisses the complaint
- it assumes the complainant will prove their case, addresses the remedies sought, and is reasonable in all the circumstances, such that it would not further the purposes of the *Human Rights Code* to proceed with the complaint

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The substance of the complaint has been appropriately dealt with in another proceeding:
s. 27(1)(f)

The decision maker is:

an arbitrator in a grievance proceeding

a court

another board or tribunal: _____

The decision maker dealt with (select one):

the same issue under the *Human Rights Code*

essentially the same legal issue

a different legal issue but decided the same facts in the complaint

Attach the outcome of the proceeding and specify where the decision maker dealt with this issue.

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All or part of the complaint was filed after the time limit: s. 27(1)(g)

Select one:

all the alleged discrimination happened more than one year before the complaint was filed

some of the alleged discrimination happened more than one year before the complaint was filed, and it is not part of a “continuing contravention” with the timely conduct

Select one or both:

the earlier alleged incidents are not similar or related to the timely allegations

there is a significant gap in time between the earlier alleged incidents and the timely allegations

Other (not listed above): identify the part of s. 27(1) you rely on:

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Step 3 – Explain the arguable grounds for dismissal

For each ground of dismissal you selected in step 2, explain how you have identified an arguable ground for dismissing the complaint, considering the legal test for dismissal:

Step 4 – Describe the evidence you would rely on to support dismissal of the complaint

Do **not** attach evidence except for the following:

1. The settlement agreement if you say the parties settled the complaint.
2. The offer to settle the complaint if you say it is a reasonable with prejudice offer that remains open even if the Tribunal dismisses the complaint.
3. The outcome of another proceeding that you say dealt with the complaint. Usually this is the decision from the other proceeding.

If the Tribunal permits a dismissal application, you can submit evidence with the application later.

Briefly describe the evidence you would rely on to seek dismissal of the complaint:

Step 5 – Explain how allowing submissions under s. 27(1) of the *Code* may further the just and timely resolution of the complaint

The Tribunal will consider factors such as:

- whether you have identified an arguable ground for dismissal and the evidence you would file to support that ground in steps 2-4;
- how a dismissal application might affect the complaint process. For example, you may explain:
 - your estimate of the length of the hearing;
 - the impact on the length or complexity of the hearing;

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- especially for a short hearing or if a hearing is already scheduled, why you think a dismissal application is a better option than a hearing which would finally resolve the merits of the complaint;
- other factors such as whether a party has barriers to a written process.

Explain how allowing submissions under s. 27(1) of the *Code* may further the just and timely resolution of the complaint:

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Step 6 – New information or circumstances (if applicable)

Complete this step only if you are relying on new information or circumstances.

Identify the new information or circumstances that would form the basis for an application to dismiss the complaint without a hearing. For example, the Complainant did not accept a with prejudice settlement offer.

Explain how and when you became aware of the new information or circumstances:

Step 7 – Finish the form

You may attach **1 extra page** or **3 pages** if you do not use the space available on this form.

You must file your form. Check here to confirm you are sending a copy to the other parties.

Check here if you are attaching extra argument.

Disclosure Requirements – check one:

I filed my Form 9.2 – Respondent Document Disclosure and delivered a copy of the Form 9.2 and each document listed on the Form 9.2 to each party on this date: _____

The Complainant or Tribunal agreed to extend the time for complying with document disclosure requirements to this date: _____