



Statement by the Coalition of Black Trade Unionists Canada

Black unionized employees face real harm if excluded from the Human Rights Tribunal of Ontario

The [Coalition of Black Trade Unionists Canada](#) (CBTU) is calling upon the community and the labour movement as a whole to pay close attention to two test cases currently before the Human Rights Tribunal of Ontario. The cases follow a recent Supreme Court of Canada decision that could result in Black unionized employees' losing the right to file human rights complaints in Ontario.

On the eve of the June 2 provincial election, the CBTU is urging community and labour allies to ensure that human rights protections for all workers become a campaign issue, and that the Doug Ford Conservatives' be held to account for the erosion of these rights in Ontario.

For nearly 20 years, unionized employees in Ontario have enjoyed the right to choose how to raise a complaint when faced with human rights violations in the workplace: by filing a grievance through a collective agreement procedure or by filing an application at the Human Rights Tribunal of Ontario (HRTO). Over this period of time, the HRTO has developed specialized expertise in cases involving anti-Black racism, ranging from acts of hate, racial profiling, and more subtle microaggressions—all of which have been documented in every sector of employment.

Indeed, significant portions of Ontario's human rights legislation are the outcome of generations of anti-racist struggle in a "long road to justice" led by Black Ontarians, such as trade unionists Bromley Armstrong, June Veacock, Janice Gairey, and numerous other activists.

In October 2021, the Supreme Court [issued a ruling](#) that effectively ended the right of the vast majority of unionized employees in Manitoba to bring complaints to the province's human rights commission.

The decision noted that in most cases collective agreements provided sufficient protection for union members' human rights, but failed to acknowledge systemic barriers that Black workers and other Equity-seeking groups face in grievance and arbitration processes. For example, only a small percentage of grievances reach arbitration, and decisions to proceed to arbitration are frequently based on considerations such as arbitration costs. While discrimination is prohibited by every collective agreement, the extent to which employees are able to enforce their human rights is subject to the power dynamics between employers and the bargaining unit, and the commitment of unions' leadership to addressing discrimination. Recourse in instances where legitimate cases are not pursued is extremely limited.



The experience of Black workers to pursue a case all the way to arbitration is often as difficult—and as traumatizing—as the initial experience of discrimination in the workplace, and almost always takes a severe emotional and psychological toll. Concurrent jurisdiction, which allows unionized employees to file complaints at the HRTO, increases access to justice in the workplace, by affording Black and other Equity-seeking workers a choice on the most appropriate forum to hear their cases.

“For decades, Black trade unionists have been at the forefront of making our unions more alert and responsive to the realities of anti-Black racism at work,” said Yolanda McClean, President of CBTU Canada. “But we also understand that Black workers sometimes feel safer and more confident having their complaints heard at the Tribunal on human rights grounds. It would be a major step backwards if Black unionized employees in Ontario lost that right.”

In response to the decision, the HRTO has recently launched a process to consider whether unionized employees in Ontario should continue to have access to the Tribunal, but CBTU leaders worry that [Black trade unionists may be excluded due to the lack of formal notice about the process](#) and extremely short deadlines that the CBTU only became aware of by chance.

“The wider labour movement in Ontario is still not fully aware that their members’ human rights are now at risk,” said Christopher Wilson, 1st Vice-President of CBTU Canada. “The HRTO must ensure that Black workers, and all other unionized employees facing an erosion of their rights, be able to participate meaningfully in this process and bring to bear our lived experiences of discrimination in the workplace.”

CBTU Canada submitted an extension request to intervene in the proceeding in advance of the deadline on March 3, 2022 in order to give voice to the experiences of Black unionized employees in Ontario. The CBTU represents Black workers from every sector of the economy and from every trade union in the wider labour movement.

“Black workers matter, and we will not be excluded from any discussion about our rights,” added McClean. “This really is [a moment of reckoning for the HRTO](#), and we expect it to be accountable to all Ontarians, including Black unionized employees.”

Labour and community organizations are invited to help CBTU Canada cover the legal costs of preparing its submission to the HRTO. Please donate [here](#).

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