HUMAN RIGHTS TRIBUNAL OF ONTARIO

B E T W E E N:

Karen Weilgosh

Applicant

-and-

London District Catholic School Board and A.P. Fernandes

Respondents

-and-

Ontario English Catholic Teachers' Association, Canadian Union of Public Employees (CUPE); and Empowerment Council, Systemic Advocates in Addictions and Mental Health

Intervenors

-and-

Ontario Human Rights Commission

Commission

A N D B E T W E E N:

Geraldine McNulty

Applicant

-and-

Regional Municipality of Peel Police Services Board and Daniel Johnstone

Respondents

-and-

Peel Regional Police Association; Canadian Union of Public Employees (CUPE); and Empowerment Council, Systemic Advocates in Addictions and Mental Health

Intervenors

-and-

Ontario Human Rights Commission

Commission

INTERIM DECISION

Adjudicators: Jeanie Theoharis, Marla Burstyn, Anthony Tamburro

Date: October 4, 2022

File Numbers: 2021-44773-I and 2021-46335-I

Citation: 2022 HRTO 1194

Indexed as: **Weilgosh v. London District Catholic School Board**

APPEARANCES

Karen Weilgosh, Applicant	)	Marisa Scotto di Luzio, Counsel Mellissa Mark, Counsel Anisha Lewis, Counsel Quinn Reid Baxter, Counsel
London District Catholic School Board and A.P. Fernandes, Respondents	)	Elizabeth Traynor, Counsel Jennifer Herpers, Counsel Brooklyn Hallam, Student-at-law
Geraldine McNulty, Applicant	)	Gary Benett, Counsel Sharon Yeboah, Counsel
Regional Municipality of Peel Police Services Board, Respondent	)	Sonia Regenbogen, Counsel
Daniel Johnstone, Respondent	)	Louis Strezos, Counsel
Peel Regional Police Association, Intervenor	)	Katie Rowen, Counsel Kristin Alen, Counsel Ryan Ramden, Student-at-law

APPEARANCES

Canadian Union of Public Employees (CUPE), Intervenor	)	Devon Paul, Counsel Alex Hunsberger, Counsel
Empowerment Council, Systemic Advocates in Addictions and Mental Health, Intervenor	)	Karen Spector, Counsel
Ontario English Catholic Teachers' Association, Intervenor	)	Christopher Perri, Counsel Kylie Sier, Counsel
Ontario Human Rights Commission, Commission	)	Matthew Horner, Counsel Sameera Islam, Student-at-Law

BACKGROUND

[1] In each of the two Applications, the Human Rights Tribunal of Ontario (the "Tribunal") scheduled a hearing to hear submissions on the preliminary issue of whether the Tribunal has jurisdiction to hear the matters raised in the two Applications.

[2] On October 22, 2021, the Supreme Court of Canada (the "Supreme Court") released its decision, *Northern Regional Health Authority v. Horrocks ("Horrocks"),* 2021 SCC 42. A Request for Order during Proceedings was filed in each of the Applications seeking to dismiss the Applications on the basis that a labour arbitrator has exclusive jurisdiction to resolve the human rights dispute.

[3] The Ontario English Catholic Teachers' Association ("OECTA"), Peel Regional Police Association Board ("PRPA"), Canadian Union of Public Employees ("CUPE") and Empowerment Council, Systemic Advocates in Addictions and Mental Health were granted intervenor status.

[4] The Ontario Human Rights Commission (the "Commission") filed a Notice of Commission Intervention under section 37(2) of the *Code* (with Consent of applicants) and intervened as a party.

[5] The preliminary hearing was held on May 11, 2022.

ISSUE

[6] The issue to be decided is whether the allegations made under the *Human Rights Code*, R.S.O. 1990, c. H. 19 (the "*Code*") fall within the exclusive jurisdiction of a labour arbitrator or whether the Tribunal has concurrent jurisdiction over employment-related human rights matters in a unionized workplace.

POSITION OF THE PARTIES

[7] The respondents to the Applications assert that the labour arbitrator has exclusive jurisdiction over the allegations and that the Tribunal lacks jurisdiction to hear the

Applications. The respondents submit the Applications should be dismissed for this reason. The applicants, intervenors and Commission assert that the Tribunal has concurrent jurisdiction to hear the Applications.

TWO-STEP ANALYSIS FOR JURISDICTIONAL QUESTIONS

[8] In *Horrocks*, the Supreme Court articulated a two-step analysis to resolve jurisdictional questions between labour arbitrators and competing statutory tribunals at paras. 39-40:

> First, the relevant legislation must be examined to determine whether it grants the arbitrator exclusive jurisdiction and, if so, over what matters (*Morin*, at para. 15). Where the legislation includes a mandatory dispute resolution clause, an arbitrator empowered under that clause has the exclusive jurisdiction to decide all disputes arising from the collective agreement, subject to clearly expressed legislative intent to the contrary.
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> If at the first step it is determined that the legislation grants the labour arbitrator exclusive jurisdiction, the next step is to determine whether the dispute falls within the scope of that jurisdiction (*Morin*, at paras. 15 and 20; *Regina Police*, at para. 27). The scope of an arbitrator's exclusive jurisdiction will depend on the precise language of the statute but, in general, it will extend to all disputes that arise, in their essential character, from the interpretation, application, or alleged violation of the collective agreement. This requires analysing the ambit of the collective agreement and accounting for the factual circumstances underpinning the dispute (*Weber*, at para. 51). The relevant inquiry is into the *facts* alleged, not the *legal* characterization of the matter (*Weber*, at para. 43; *Regina Police*, at para. 25; *Quebec (Attorney General) v. Quebec (Human Rights Tribunal)*, 2004 SCC 40, [2004] 2 S.C.R. 223 ("*Charette*"), at para. 23).

[9] The focus of this decision is to address the first step in the analysis. More particularly our analysis will ask two questions:

> a. Does the *Labour Relations Act, 1995*, S.O. 1995, c. 1, Sched. A (the "*LRA*") or the *Police Services Act*, R.S.O. 1990, c. P.15 (the "*PSA*") grant exclusive jurisdiction to a decision-maker appointed under labour legislation?
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> b. If the answer to the first question is "yes", is there clearly expressed legislative intent to displace a labour arbitrator's exclusive jurisdiction?

ANALYSIS

Does the *Labour Relations Act* or the *Police Services Act* Grant Exclusive Jurisdiction to a Decision-Maker Appointed Under Labour Legislation?

The Labour Relations Act

[10] The provisions in the *LRA* grant a labour arbitrator exclusive jurisdiction to decide claims allegedly arising from disputes that in their essential character relate to the interpretation, application, or violation of a collective agreement.

[11] Judicial decisions have previously maintained that the jurisdiction conferred upon a labour arbitrator appointed under labour legislation is exclusive. On behalf of a majority of the Supreme Court in *Weber v. Ontario Hydro*, 1995 CanLII 108 (SCC), [1995] 2 SCR 929 ("*Weber*"), McLachlin J. had to choose between three conflicting views on the effect of final and binding arbitration clauses in labour legislation: the "concurrent model", the "model of overlapping jurisdiction", and the "exclusive jurisdiction model". She concluded that the proper approach was the exclusive jurisdiction model (at para. 58), which she explained at paras. 51-52:

> On this approach, the task of the judge or arbitrator determining the appropriate forum for the proceedings centres on whether the dispute or difference between the parties arises out of the collective agreement. Two elements must be considered: the dispute and the ambit of the collective agreement.
>
> In considering the dispute, the decision-maker must attempt to define its "essential character", to use the phrase of La Forest J.A. in *Energy & Chemical Workers Union, Local 691 v. Irving Oil Ltd.* (1983), 1983 CanLII 3072 (NB CA), 148 D.L.R. (3d) 398 (N.B.C.A.). The fact that the parties are employer and employee may not be determinative. Similarly, the place of the conduct giving rise to the dispute may not be conclusive; matters arising from the collective agreement may occur off the workplace and conversely, not everything that happens on the workplace may arise from the collective agreement: *Energy & Chemical Workers Union*, *supra*, per La Forest J.A. Sometimes the time when the claim originated may be important, as in *Wainwright v. Vancouver Shipyards Co.* (1987), 1987 CanLII 166 (BC CA), 38 D.L.R. (4th) 760 (B.C.C.A.), where it was held that the court had jurisdiction over contracts pre-dating the collective agreement. See also *Johnston v. Dresser Industries Canada Ltd.* (1990), 1990 CanLII 6808 (ON CA), 75 O.R. (2d) 609 (C.A.). In the majority of cases the nature of the dispute will be clear; either it had to do with the collective agreement or it

> did not. Some cases, however, may be less than obvious. The question in each case is whether the dispute, in its essential character, arises from the interpretation, application, administration or violation of the collective agreement.

[12] The Supreme Court in *Horrocks* confirmed that "where labour legislation provides for the final settlement of disputes arising from a collective agreement, the jurisdiction of the arbitrator … empowered by this legislation is exclusive." *Horrocks* at paras. 15. See also paras. 22 and 25.

[13] The *LRA* provides for a mandatory dispute resolution clause granting a labour arbitrator the exclusive jurisdiction to decide disputes arising from a collective agreement.

[14] Subsection 48(1) of the *LRA* requires that every collective agreement include a clause providing for the final settlement of differences concerning the interpretation, application, or alleged violation of the agreement, by arbitration or otherwise:

> 48(1) Every collective agreement shall provide for the final and binding settlement by arbitration, without stoppage of work, of all differences between the parties arising from the interpretation, application, administration or alleged violation of the agreement, including any question as to whether a matter is arbitrable.

[15] Even if a collective agreement does not contain a provision such as that in subsection 48(1) of the *LRA*, subsection 48(2) deems a collective agreement to contain a provision for arbitration pursuant to the prescribed formalities set out in the subsection.

[16] Moreover, subsection 48(12)(j) of the *LRA* empowers a labour arbitrator to "interpret and apply human rights and other employment-related statutes, despite any conflict between those statutes and the terms of the collective agreement."

[17] The Supreme Court acknowledged that courts have interpreted such mandatory dispute resolution provisions as providing exclusive jurisdiction to the decision-maker appointed pursuant to the legislation. This provides for "predictability, finality and certainty" with respect to competing tribunal jurisdiction. The Supreme Court in *Horrocks* noted at para. 31 that:

> Conditioning the effect of a mandatory dispute resolution clause on the nature of the competing forum would result in persistent jurisdictional confusion, leaving members of the public unsure "where to turn in order to resolve a dispute"… . Affirming that the same principles apply in every context avoid this state of affairs.

[18] For the above reasons, we find that an arbitrator appointed under the *LRA* has exclusive jurisdiction to decide claims of discrimination and harassment falling within the scope of a collective agreement in Ontario, subject to a clear legislative intent to displace this exclusive jurisdiction, as discussed below.

The Police Services Act

[19] The *PSA*, its Regulations and the collective agreement grant a labour arbitrator exclusive jurisdiction to decide claims allegedly arising from disputes that in their essential character relate to the interpretation, application, or violation of a collective agreement. Both Sergeant McNulty and the PRPA argue that the *PSA* does not confer exclusive jurisdiction over labour relations to arbitrators. For example, they note that the *PSA* does not establish labour arbitration as the sole forum for the adjudication of disputes relating to the human rights of police employees. For uniformed officers, there are at least two different adjudicative forums, both of which are empowered to adjudicate human rights: the conciliation-arbitration process, which handles matters arising out of the collective agreement, and the Ontario Civilian Police Commission, which deals with appeals of disciplinary matters and with whether police employees have been properly accommodated in accordance with section 47.

[20] The Tribunal agrees that the *PSA* does not grant exclusive jurisdiction to labour arbitrators over all matters arising out of employment as a uniformed police officer. However, where the matter in question relates to the police officer's collective agreement, it is settled law in Ontario that exclusive jurisdiction to decide claims rests with a labour arbitrator.

[21] In *Regina Police Assn. Inc. v. Regina (City) Board of Police Commissioners*, 2000 SCC 14, the Court found that *Weber* applies to disputes arising out collective agreements involving police officers. Bastarache J. stated at paras. 21-22:

> The issue in this appeal is whether the dispute between Sgt. Shotton and the Employer arises out of the collective agreement. If it does, the arbitrator had jurisdiction to hear and decide the dispute, and was incorrect in refusing to do so. This Court's decision in *Weber*, *supra*, provides the test for determining this question.
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> In *Weber*, this Court was asked to determine when employees and employers are precluded from resolving their disputes in the courts by a legislative scheme providing for binding arbitration of all disputes relating to their collective agreement. McLachlin J., for the majority of the Court, accepted the exclusive jurisdiction model for determining the appropriate forum for resolving a dispute that arises in an employment context. Pursuant to the exclusive jurisdiction model, if a difference between the parties arises from the interpretation, application, administration or violation of their collective agreement, the claimant must proceed by arbitration, absent a mutually agreed settlement. No other forum has the power to entertain an action in respect of that dispute: see *Weber*, at paras. 50-54.

[22] In *Renaud v. Town of Lasalle Police Association*, 2006 CanLII 23904 (ON CA), the Ontario Court of Appeal reaffirmed the exclusive jurisdiction of labour arbitrators regarding disputes arising from collective agreements in the policing context. The Court stated at paras. 4 to 6:

> At all material times, there was a Collective Agreement between the Board and the Association which provided a grievance procedure and provided for final arbitration to resolve differences arising from the Collective Agreement and any violation thereof.
>
> In our view, the motion judge was correct in finding that the appellant's complaints arise out of his employment relationship with the Board, which is governed by the terms of the Collective Agreement and the specific rights, duties and obligations between the parties that are set forth in the Police Services Act and Regulations. The established jurisprudence is clear that in light of the nature of the dispute and the ambit of the Collective Agreement, the courts do not have jurisdiction to deal with the dispute between the parties. See for example *Regina Police Assn. Inc. v. Regina (City) Board of Police Commissioners*, 2000 SCC 14 (CanLII), [2000] 1 S.C.R. 360 (SCC).
>
> In *Abbott v. Collins*, 2003 CanLII 46127 (ON CA), [2003] O.J. No. 1881 (C.A.), this court confirmed that the scheme created by the Act and Regulations and the Collective Agreement is intended by the legislature to provide a comprehensive scheme to govern all aspects of the employment relationship between the appellant and the respondents.

[23] For the above reasons, we find that an arbitrator appointed under the *PSA* has exclusive jurisdiction to decide claims of discrimination and harassment falling within the scope of a collective agreement in Ontario, subject to a clear legislative intent to displace this exclusive jurisdiction, which is discussed next.

Is there a Clearly Expressed Legislative Intent to Displace a Labour Arbitrator's Exclusive Jurisdiction?

[24] To continue in our analysis of the issue, the Supreme Court indicated that competing statutory tribunals, such as the Tribunal, may carve into a labour arbitrator's sphere of exclusivity, establishing concurrent jurisdiction, only where the legislative intent is clearly expressed.

[25] The *Code* demonstrates a clear legislative intent to expressly displace the labour arbitrator's exclusive jurisdiction. We find that the Tribunal has concurrent jurisdiction to decide claims of discrimination and harassment falling within the scope of a collective agreement in Ontario.

[26] The Supreme Court's decision in *Horrocks* held that exclusive arbitral jurisdiction is not a mere "preference" that ought to be disregarded merely because a competing statutory scheme is present. It is "an *interpretation* of the mandate given to arbitrators by statute. The text and purpose of a mandatory dispute resolution clause remains unchanged, irrespective of the existence or nature of competing regimes, and its interpretation must therefore also remain consistent." *Horrocks* at para. 30.

[27] In conducting our analysis, we have considered a number of principles of statutory interpretation, including the following. First, as Iacobucci J. reaffirmed in *Rizzo & Rizzo Shoes Ltd. (Re)*, 1998 CanLII 837 (SCC), [1998] 1 SCR 27 at para. 21:

> Today there is only one principle or approach, namely, the words of an Act are to be read in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act, and the intention of Parliament.

[28] Second, when interpreting legislation and deriving legislative intent, "[p]arliament is deemed to know the existing law and is unlikely to have intended any significant changes to it unless that intention is made clear." *R. v. D.L.W.*, 2016 SCC 22 (CanLII), [2016] 1 SCR 402, at para. 21.

[29] Third, "there is a presumption that the common law remains unchanged absent a clear and unequivocal expression of legislative intent." *Canada (Attorney General) v. Thouin*, 2017 SCC 46 (CanLII), [2017] 2 SCR 184 at para. 19.

[30] Fourth, when the Legislature passes legislation, there is a strong presumption that it was aware of all of the facts and laws relevant to that legislation. According to Professor Ruth Sullivan in *The Construction of Statutes*, 7th ed. (Toronto: LexisNexis Canada Inc., 2022) at § 8.02:

> The legislature is presumed to know all that is necessary to produce rational and effective legislation. This presumption is very far-reaching. It credits the legislature with the vast body of knowledge referred to as legislative facts and with mastery of existing law, common law and the Civil *Code* of Québec as well as ordinary statute law, and the case law interpreting statutes. The legislature is also presumed to have knowledge of practical affairs. It understands commercial practices and the functioning of public institutions, for example, and is familiar with the problems its legislation is meant to address. In short, the legislature is presumed to know whatever facts are relevant to the conception and operation of its legislation. [footnotes omitted]

[31] The Supreme Court in *Horrocks* discussed at para. 32 two possible scenarios where the competing statutory scheme demonstrates an intention to displace the arbitrator's exclusive jurisdiction: (i) the legislation "may enact a 'complete code' that confers exclusive jurisdiction over certain kinds of disputes on a competing tribunal" or (ii) "the legislation may endow a competing tribunal with concurrent jurisdiction over disputes that would otherwise fall solely to the labour arbitrator for decision." Regardless of which manner is taken by the legislature, the Supreme Court recognised that the courts must respect that intention.

[32] In *Horrocks*, the Supreme Court held that Manitoba's *Human Rights Code* did not carve out concurrent jurisdiction for human rights adjudicators appointed under that

statute and that only labour arbitrators have jurisdiction to adjudicate claims of discrimination falling with the scope of a collective agreement in Manitoba.

[33] The Supreme Court further acknowledged at paras. 15 and 39 that the jurisdiction of the decision-maker empowered by labour legislation is exclusive, and that it applies "irrespective of the nature of the competing forum, but is always subject to clearly expressed legislative intent to the contrary." [emphasis added].

[34] The Supreme Court offered guidance on determining the legislative intent at para. 33:

> [T]he mere existence of a competing tribunal is insufficient to displace labour arbitration as the sole forum *for disputes arising from a collective agreement.* Consequently, some positive expression of the legislature's will is necessary to achieve that effect. Ideally, where a legislature intends concurrent jurisdiction, it will specifically so state in the tribunal's enabling statute. But even absent specific language, the statutory scheme may disclose that intention. For example, some statutes specifically empower a decision-maker to defer consideration of a complaint if it is capable of being dealt with through the grievance process (see, e.g., *Human Rights Code*, R.S.B.C. 1996, c. 210, s. 25; *Canada Labour Code*, ss. 16(l.1) and 98(3); *Canadian Human Rights Act*, R.S.C. 1985, c. H-6, ss. 41 and 42). Such provisions necessarily imply that the tribunal has concurrent jurisdiction over disputes that are also subject to the grievance process. In other cases, the provisions of a statute may be more ambiguous, but the legislative history will plainly show that the legislature contemplated concurrency (see, e.g., *Canpar Industries v. I.U.O.E., Local 115*, 2003 BCCA 609, 20 B.C.L.R. (4th) 301). In these circumstances, applying an exclusive arbitral jurisdiction model would defeat, not achieve, the legislative intent

[35] As previously mentioned, the mere existence of the Tribunal to adjudicate claims of discrimination and harassment under the *Code* is not enough to displace a labour arbitrator's exclusive jurisdiction. The Supreme Court referred to the British Columbia ("BC") and federal statutory schemes as examples that potentially disclose the intention for concurrent jurisdiction. In those two examples the statutory schemes explicitly contemplate that the deferral powers extend to disputes that could be subject to a grievance under a collective agreement.

[36] The provisions of the *Code* are less clear than the British Columbia and federal statutes, but the legislative history plainly shows that the Legislature contemplated concurrency. Indeed, Ontario's scheme has a unique legislative history, which the Supreme Court has signalled is important in discerning legislative intent with respect to concurrent versus exclusive arbitral jurisdiction.

[37] Following *Weber*, the Ontario Court of Appeal has upheld concurrent jurisdiction between labour arbitrators and the Tribunal. The leading such case is *Ontario (Human Rights Commission) v. Naraine*, 2001 CanLII 21234 (ON CA) ("*Naraine*"). In relation to the *Code* as it read at the time, the Court stated at paras. 59-60:

> The Commission now has authority under s. 34(1)(a) of the *Code* to decide, in its discretion, not to deal with a complaint where it is of the view that the complaint "could or should be more appropriately dealt with" under another Act. Labour arbitrators now have statutory authority under the *Labour Relations Act* to apply the *Code*. Since the Commission has statutory authority under the *Code* to defer to another forum, the legislative intent has clearly shifted from according exclusive jurisdiction to the Commission for *Code* violations to offering concurrent jurisdiction to labour arbitrators when complaints arise from disputes under a collective agreement.
>
> The underlying goal of these symmetrical amendments is to avoid the gratuitous bifurcation or proliferation of proceedings, especially when the arbitrable grievance and the human rights complaint emerge seamlessly from the same factual matrix. That goal was also, I think, at the heart of *Weber*. In my view, *Weber* stands for the proposition that when several related issues emanate from a workplace dispute, they should all be heard by one adjudicator to the extent jurisdictionally possible, so that inconsistent results and remedies, such as those in Mr. Naraine's case, may be avoided [emphasis added].

[38] Amendments to the *Code* that came into force in 2008 provided people of Ontario the ability to file their applications directly with the Tribunal, eliminating the Ontario Human Rights Commission's gatekeeper role: section 34(1) permits a person to apply directly to the Tribunal if they believe their rights under the *Code* have been infringed.

[39] Section 45 of the *Code* now gives the Tribunal the power to "defer an application in accordance with the Tribunal rules". Section 45 is similar but not identical to the BC and federal statutory schemes. However, it does not specifically indicate that the deferral

power extends to disputes that could be the subject of a grievance under a collective agreement.

[40] Also, section 45.1 of the *Code* provides the Tribunal the broad power to dismiss an application if it "is of the opinion that another proceeding has appropriately dealt with the substance of the application."

[41] In our view, the broad language used in the *Code* signals a legislative intent that the Tribunal maintains concurrent jurisdiction. Despite being presumptively aware of the decisions in *Weber* and *Naraine*, and the fact that the Tribunal had continued to hear cases arising from collective agreements, the Legislature did not take steps to limit or narrow the deferral and dismissal powers in sections 45 and 45.1. This signals a clear intent to permit Tribunal decision-makers the power to decide whether to defer applications that could be decided elsewhere, including by arbitration, by grievance, by review or otherwise. The broad discretion provided to Tribunal decision-makers indicates a positive expression of the Legislature to maintain concurrent jurisdiction, thereby displacing labour arbitration as the sole forum for disputes arising from a collective agreement.

[42] By way of contrast, where the Legislature chose to limit the scope of the Tribunal's jurisdiction with respect to other decision-makers, it did so expressly. For example, section 34(11) of the *Code* was enacted in order to expressly remove the jurisdiction of the Tribunal where a person has brought civil proceedings seeking an order under section 46.1. No such express removal of jurisdiction was enacted with respect to proceedings that could be heard by labour arbitrators.

[43] The mere fact that the Tribunal maintains concurrent jurisdiction does not necessarily mean that the Tribunal will address all applications that are filed with it. The Tribunal may defer consideration of an application "on such terms as it may determine, on its own initiative or at the request of a party." Rule 14.1 of the Tribunal's Rules of Procedure.

[44] As noted in *Horrocks* at para. 41 “[w]here two tribunals have concurrent jurisdiction over a dispute, the decision-maker must consider whether to exercise its jurisdiction in the circumstances of a particular case.” The Supreme Court accurately identified that “human rights tribunals have not only regularly held that they have concurrent jurisdiction, but have exercised it, even where there exists or has existed a parallel labour arbitration proceeding dealing with the substance of the complaint.” Having found that there was no concurrency with the Manitoba *Code*, the Supreme Court declined to elaborate on the factors that should guide the determination of the appropriate forum.

[45] This preliminary hearing was to determine the issue relating to exclusive versus concurrent jurisdiction to address the Applications filed at the Tribunal. If the parties wish to defer the Application, they may provide the Tribunalwith their consent to defer, or alternatively make a request to defer.

[46] For the reasons noted above we find a clear legislative intent to carve out concurrent jurisdiction for the Tribunal to decide claims of discrimination and harassment under the *Code*.

CONCLUSION

[47] While the provisions of the *LRA* and the *PSA* grant a labour arbitrator exclusive jurisdiction to decide claims arising from disputes that in their essential character relate to the interpretation, application or alleged violation of a collective agreement, the *Code* demonstrates a clear legislative intent to displace the labour arbitrator’s exclusive jurisdiction. As such, we find that the Tribunal has concurrent jurisdiction to decide claims of discrimination and harassment falling within the scope of a collective agreement governed by the *LRA* and the *PSA*.

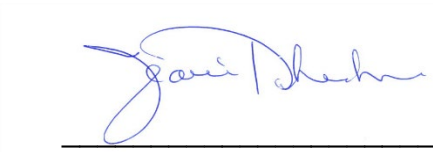
ORDER

[48] The Request for Order during Proceedings to dismiss the Applications for lack of jurisdiction is dismissed.

[49] The Applications may proceed in the Tribunal's processes.

[50] We are not seized.

Dated at Toronto, this 4th day of October 2022.



Jeanie Theoharis
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Marla Burstyn
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Vice-Chair