

## The Limits of Limitations for Human Rights Complaints

By Linda McKay-Panos

### Cases Considered:

[\*Ji v. Alberta \(Human Rights and Citizenship Commission\)\*, 2008 ABQB 571](#)

A recent Alberta Court of Queen's Bench case brings to the fore the issue of strict limitation provisions in human rights cases. The limitation issue applies both to making a complaint and to the strict procedural time rules imposed during the complaint process. These rules seem overly harsh in view of the fact that most complainants are not represented by lawyers and the requirements can be quite confusing and complex.

Originally, the limitation period for making a human rights complaint in Alberta was six months. This was extended to one year in 1996. Several critics have suggested that the *Human Rights, Citizenship and Multiculturalism Act (HRCMA)*, R.S.A. 2000, c. H-14, should be amended to allow the Commission to accept complaints outside of the limitation period, if they are satisfied that the delay was incurred in good faith and that no substantial prejudice will result from the delay. In the case of a request for a review of a dismissal of a complaint by the Commissioner, it must be received by the Commission not later than 30 days after receipt of the notice of dismissal. Some have argued the Chief Commissioner should have some discretion with regard to these internal time restrictions.

The complainant in *Ji v. Alberta (Human Rights and Citizenship Commission)* appears not to have been represented by counsel, and even acted for herself at the Alberta Court of Queen's Bench. The complainant filed her complaint on July 20, 2006 against the Alberta Government Department of Health and Wellness. On November 27, 2007, the Commission sent the complainant a registered letter informing her that her complaint was dismissed. The letter indicated to her that the Chief Commissioner must receive her request for a review within 30 calendar days of receiving the Notice of Dismissal, or on January 3, 2008, which was 30 days from the presumed date of receipt of the Notice of Dismissal, whichever date was earliest. Ms. Ji was four days late in filing her request for review by the Chief Commissioner.

Ms. Ji applied to the Alberta Court of Queen's Bench for an order that the Chief Commissioner review the dismissal of her complaint. Justice R. Paul Belzil denied the application, holding that

the court did not have jurisdiction to provide the relief that she was seeking (i.e. to allow for the four days' tardiness in filing a review request).

It is perhaps interesting to note that the general limitation period for tort claims (similar civil actions) is usually two years. People who use the court system to make tort claims are probably more likely to have the benefit of legal counsel. On the other hand, the human rights system is supposed to provide people with the opportunity to get redress for discrimination without hiring a lawyer. Often the victims of human rights abuses are vulnerable people—new Canadians, mentally or physically disabled persons or minority group members. These individuals are more likely to be people who do not necessarily know about the serious implications of strict limitations, such as those that exist in the *HRCMA*. While justice may require that limitation periods exist, if the Commission had the opportunity to extend these periods in the appropriate circumstances, the rather harsh result in the *Ji* case might be avoided.