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# e2r Alert!

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## Childcare Obligations & the Duty to Accommodate

September means back to school and, for many families, adjusting to a new childcare routine. Let's take a moment to re-visit and update our understanding of family status accommodation.

To be brief, family status discrimination is the unfair, or less favourable, treatment of an employee due to their caregiving role. Canadian employers have a legal obligation to provide accommodations for employees with family-related needs, such as offering flexible working hours, granting time off to attend to sick children, or providing access to resources for elder care.

In its recent decision, [Aguete v. Family Options Inc.](#), the Human Rights Tribunal of Ontario ("HRTO") confirmed that the duty for employers to accommodate family status as it relates to scheduling is not unlimited. In this case, the employee cited difficulty obtaining childcare and requested alternate shifts as an accommodation for her family status as the single parent of a 6-year-old child.

Despite the fact that the employee had made her family status needs known and requested certain scheduling changes as an accommodation - and had established a *prima facie* case of discrimination - her application was dismissed. The HRTO emphasized that the duty to accommodate is not without limit, and more specifically, employees are not entitled to perfect accommodation, but rather to an accommodation that is reasonable in the circumstances.

For example, the evidence demonstrated that the employee had requested shifts that did not exist or would require the employer to split shifts. The Tribunal also noted that many of the applicant's requests for changes to her shifts appeared to have been based on preference rather than need.

The duty to accommodate is a cooperative and collaborative process. In this case, the employer fulfilled their part in the accommodation process, however, the employee did not when she failed to accept reasonable accommodations.

## Take Aways

Accommodation arrangements do not have to be perfect, and this decision confirms that the employer's duty to accommodate family status may be discharged when employees turn down proposed accommodations that are reasonable in the circumstances. The employee, the employer, and union and/or employee representatives must cooperate to find reasonable and practical solutions.

Please do not hesitate to reach out to chat with an Advisor if you have any questions, or are looking for support on accommodation strategies and the review or development of relevant policies.