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### **PRACTICE AND PROCEDURE BEFORE ADMINISTRATIVE TRIBUNALS**

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#### **AUTHOR'S NOTE**

This release contains the following recent developments in administrative law.

In *Canada (Attorney General) v. Responsible Plastic Use Coalition*, 2026 CarswellNat 230, 2026 CarswellNat 229, 2026 CAF 17, 2026 FCA 17, 511 D.L.R. (4th) 516 (F.C.A.), the Federal Court of Appeal applied the framework in Auer to find the Government in issuing a regulation banning certain plastic manufactured items acted reasonably and the regulation was valid.

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In *Bokhari v. Top Medical Transportation Services*, 2026 CarswellOnt 2360, 2026 ONSC 1073 (Ont. Div. Ct.), the Ontario Divisional Court granted a judicial review to an applicant challenging the Ontario Human Rights Tribunal's dismissal of his case on jurisdictional grounds. The Court found the Tribunal had considered whether the applicant had a disability to be a jurisdictional issue but in fact engaged in a disguised merits review to reach that determination. Additionally, the Tribunal erred in using a balance of probabilities standard for its conclusion on jurisdiction. The result was an unreasonable decision.

In *Doherty-Masters v. Waterloo Catholic District School Board*, 2026 CarswellOnt 2937, 2026 ONSC 997 (Ont. Div. Ct.), the Ontario Divisional Court set aside a finding by a school board that a trustee breached its code of conduct and the sanctions flowing from that breach on the basis that the decision of the board was unreasonable on the basis of inadequate reasons.

In *Habitat for Humanity v. Booth*, 2026 CarswellBC 52, 2026 BCCA 8 (B.C. C.A.), the British Columbia Court of Appeal considered an appeal from a decision of a judge setting aside the determination of an arbitrator that the *Residential Tenancy Act* did not apply to a dispute because the parties did not intend for the tenant to rent the house at issue. The judge found the arbitrator's decision to be patently unreasonable. In the course of the Court of Appeal's reasons, it revisited the nature of the patent unreasonableness standard of review under s.58(2)(a) of the B.C. *Administrative Tribunals Act*.