



First Nations Child and Family Caring Society Statement in response to Canada's Judicial Review of the Canadian Human Rights Tribunal decision on compensation

November 23, 2022 – The Caring Society is disappointed in Canada's decision to continue litigating despite the clear orders and direction from the Canadian Human Rights Tribunal (Tribunal) and the Federal Court confirming Canada's obligation to pay a minimum of \$40,000 in human rights compensation to all eligible victims of Canada's discrimination covered by the Tribunal's orders. The Tribunal's October 24, 2022, Letter-Decision made clear suggestions on how to fix the class action Final Settlement Agreement (FSA) to ensure all victims, including children left out of the FSA, get the human rights compensation and supports they are legally entitled to as soon as possible. It is unfortunate that Canada has chosen not to make the necessary changes to ensure no one is left behind.

It has been over three years since the Tribunal ordered Canada to pay human rights compensation to all eligible victims of Canada's discriminatory treatment of First Nations children, youth and caregivers. The Federal Court upheld this decision over a year ago. Following this, Canada announced it wanted to pay the compensation via a class action settlement. The Tribunal found that the FSA disentitles some victims, including many children, while reducing the compensation amounts for others or making their entitlements unclear. Canada's underfunding of child and family services caused egregious harms, such as unnecessary removals, separations and harms to First Nations children. Its failure to implement Jordan's Principle created serious harms and has been linked to the deaths of some children. As the Tribunal said in its October 24, 2022, Letter-Decision, "Human rights are fundamental rights that are not intended to be bargaining chips that parties can negotiate away" (pg. 12).

Work on long-term reform to end Canada's discrimination and prevent its recurrence continues. The Caring Society supports First Nations-informed and evidence-based approaches that ensure non-discrimination is enforced as a minimum standard and allows for enhancements to adapt to unique First Nations circumstances and needs.

The Caring Society is committed to seeing all victims of Canada's discrimination immediately receive the human rights compensation and supports they have already won. The Caring Society remains ready to work with Canada to resolve these issues.