

Our file 1001

February 1, 2013

BY EMAIL

Dragisa Adzic
Registry Operations
Canadian Human Rights Tribunal
11th Floor, 160 Elgin Street
Ottawa, ON K1A 1J4

Dear Mr Adzic:

**Re: First Nations Child and Family Caring Society, Assembly of First Nations et al
v. Attorney General of Canada - Tribunal File #: T1340/7008**

We have received the letter from Respondent's counsel this morning seeking an adjournment of the first week of hearing of this case. The Complainant First Nations Child and Family Caring Society strongly opposes this request for the reasons that follow.

First and foremost, there have been numerous delays in bringing this case to hearing. There has still not been one day of evidence on the merits. In considering requests for adjournments, the Tribunal has routinely referred to section 49.9(1) of the *Canadian Human Rights Act* and the directive that "proceedings before the Tribunal shall be conducted as informally and expeditiously as the requirements of natural justice and the rules of procedure allow." As stated recently by this body, "the Tribunal must weigh the goal of resolving human rights complaints in a timely manner against the requirements to be fair to all parties and to provide them with a full and ample opportunity to present their case".¹

The Respondent has not raised any natural justice or procedural fairness concerns to support its request for an adjournment. Instead, the Respondent refers to the fact that the Federal Court of Appeal has scheduled a hearing the following week. With respect, this is not sufficient cause for an adjournment, particularly since all the

¹ Diane Carolyn Emmett v. Canada Revenue Agency, 2012 CHRT 3 at para. 3

parties were aware this was a possibility. There was certainly a discussion that the parties would all consent to an adjournment if the Court of Appeal scheduled it on a hearing day of the Tribunal. In that case, the parties agreed the Tribunal hearing could be adjourned for that day, as well as the day or two prior to prepare.

Here, there are already four days between the last scheduled day of hearing before the Tribunal and the Court of Appeal's hearing. There is no conflict in time and no natural justice issues engaged.

The Tribunal recently considered a request for an adjournment due to a pending application of judicial review in the Federal Court related to the same case. The Tribunal member in *Blain* noted that the complaint originated in 2008 and it had already taken almost four years to reach that phase in the process. Under the circumstances, the Tribunal member found that the delay caused by the adjournment would not be justified.²

In the present case, the complaint originated in 2007, over five years ago. No further delays would be justified absent exceptional circumstances involving serious risks to natural justice. The Caring Society also notes that the Respondent has brought this request many times to the Tribunal, in different forms and in different ways. In the circumstances, it is akin to a request for a stay of proceedings. A formal motion for a stay was never brought.

Finally, the Caring Society has heard from many First Nations people and leaders from communities across the country who have made plans to attend the first week of hearing on February 25, 2013. Travel plans have been made and planes booked. It would therefore be preferable if this matter could be resolved before the next Case Management Conference.

Yours truly,

A handwritten signature in black ink, appearing to read 'Paul Champ', written in a cursive style.

Paul Champ

c: All Parties

² *Greg Morrison Blain v. Royal Canadian Mounted Police*, 2012 CHRT 13 at para. 6