

Child Welfare Funding Case: Timeline of Procedural Delays

Human Rights Complaint Filed

February 2007
The Caring Society & AFN file the complaint at the Canadian Human Rights Commission (the Commission)

Canada writes to the Commission's Assessor arguing that the complaint is outside the jurisdiction of the Act for two reasons:

- (1) Canada does not provide child welfare "services" under s.5 of the Act, it is merely a funder ("Services Issue").
- (2) Since Canada does not fund child welfare for anyone but First Nations, it is not discriminating ("Comparator Issue").

CANADIAN HUMAN RIGHTS COMMISSION

September 2008
The Assessor denies Canada's request, and recommends that the Commission refer the complaint to the Canadian Human Rights Tribunal (Tribunal).

Commission Refers Complaint to Tribunal

September 2008
The Commission refers the complaint to the Tribunal for a hearing.

Canada applies to Federal Court for judicial review of the referral to the Tribunal. Argues Services Issue and Comparator Issue.

FEDERAL COURT

November 2009
Prothonotary Aronovitch stayed Canada's application pending the Tribunal's hearing on the merits.

FEDERAL COURT

March 2010
Canada appeals. Justice O'Reilly upholds the stay decision. (2010 FC 343)

Tribunal Process... Towards a Hearing ...

February–December 2009
Hearing on the merits begins. Caring Society presents opening statement. Chiefs of Ontario and Amnesty International Canada granted intervenor status. Thirteen additional weeks of hearings scheduled.

TRIBUNAL

February 2009–December 2009
Canada asks for preliminary decisions on Services and Comparator Issues. Chair Sinclair refuses. New Chair Chotalia appointed, vacates hearing dates. Canada files a motion to dismiss complaint on Services and Comparator Issue.

FEDERAL COURT: MANDAMUS

The Tribunal takes more than the allotted six months to rule on Canada's motion. Mandamus is filed to take it to Federal Court so Tribunal rules on the decision before this happens.

TRIBUNAL

March 2011
Chair Chotalia grants Canada's motion. Finds that Services Issue cannot be dealt with on a preliminary motion, but dismisses the complaint on Comparator Issue.

Federal Court of Appeal, Federal Court and Tribunal Hearings and Decisions

FEDERAL COURT

2011–2012
Caring Society, AFN and Commission apply to Federal Court for judicial review of the Tribunal's decision. Justice Mactavish grants their application, and set aside the Tribunal's decision to dismiss the complaint. (2012 FC 445)

FEDERAL COURT

2012
Canada applies to Federal Court of Appeal to overturn the Federal Court decision. All other parties opposed. Tribunal hearings to proceed concurrently.

TRIBUNAL: RETALIATION*

October 16, 2012
The Canadian Human Rights Tribunal amends the child and family services complaint to include allegations of retaliation and intimidation by the Canadian Government against the Caring Society and its executive director, Dr. Cindy Blackstock.

TRIBUNAL

February 25, 2013
Canadian Human Rights Tribunal begins hearings.

FEDERAL COURT OF APPEAL

March 2013
Federal Court of Appeal (A-145-12) dismisses Canada's application after one day of hearings. No appeal to the Supreme Court of Canada. Child welfare case continues with retaliation complaint to follow.

Canadian Human Rights Tribunal Hearings and Decisions

2013–2014
After many delays with disclosure documents, the CHRT rules that Canada violated obligations by withholding 100,000 documents. Canada ordered to properly disclose all documents by August 31, 2013 with the retaliation hearings to be heard July 2013.

TRIBUNAL

October 20-24, 2014
Closing oral arguments. Watch the archived video at fnwitness.ca

TRIBUNAL: RETALIATION

June 5, 2015
Canadian Human Rights Tribunal (2015 CHRT 14) finds that Canada willfully and recklessly retaliated against Cindy Blackstock and awards 20,000 in damages

TRIBUNAL: CHILDREN'S CASE

January 2016
Canadian Human Rights Tribunal ruling expected.



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* Caring Society obtains Government of Canada documents through Access to Information request – AANDC blocked Caring Society from its mandate of expert advice to FNCFC and AANDC/Dept. of Justice collected personal info on Dr. Cindy Blackstock

Learn more about the case at
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