# **Child Welfare Funding Case: Timeline of Procedural Delays**

**Commission Refers** 

for a hearing.

**Complaint to Tribunal** 

### Human Rights **Complaint Filed**

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

# September 2008 The Commission refers the complaint to the Tribunal

Canada writes to the Commission's Assessor arguing that the complaint is outside the jurisdiction of the Act for Comparator Issue.

- (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").

## **COMMISSION**

two reasons:

September 2008

The Assessor denies Canada's request, and recommends that the Commission refer the complaint to the Tribunal.

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

## **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.

## 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.

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

### Federal court of appeal and tribunal hearings

### 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)

# 2012

Canada applies to federal court of appeal to overturn the federal court decision. All other parties opposed. Tribunal hearings to proceed concurrently

# **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

#### 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.

First Nations Child and Family Caring Society of Canada 309 Cooper Street, Suite 401, Ottawa ON K2P 0G5 t: 613-230-5885 | f: 613-230-3080 | e: info@fncaringsociety.com fncaringsociety.com

Authors: Judith Rae, Lillian Boctor, Amanda Wright and Christopher Zawadzki | © 2015 FNCFCS



#### Tribunal Hearings

### 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.

### RETALIATION

July 15-26, 2013 Canadian Human Rights Tribunal hears full retaliation case. Decision to be deliberated at the end of the Tribunal hearings.

# **TRIBUNAL**

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

# **TRIBUNAL**

Spring 2015 Canadian Human Rights Tribunal ruling expected.





www.fnwitness.ca

about the

case at

Follow us at #Witness4FirstNationskids