



CANADIAN HUMAN RIGHTS TRIBUNAL

ANNUAL REPORT

— 2018 —



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Canada



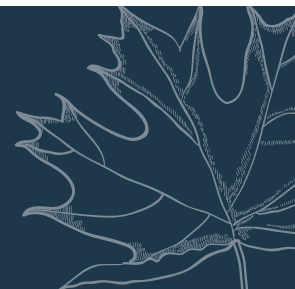
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CHAIRPERSON'S MESSAGE



As the Chairperson of the Canadian Human Rights Tribunal (CHRT), I have the honour to present this 2018 Annual Report to Parliament and to all Canadians.

The cover of this year's Annual Report features the emblem of the CHRT, which is used

from time to time in our materials to remind us of our role. The emblem was designed in-house in 2015 and the meaning of the emblem is described in the message on page 4 of this report.

The Canadian Human Rights Tribunal is an adjudicative body that hears complaints of discrimination under the *Canadian Human Rights Act*. We are governed by the laws enacted by Parliament and subject to interpretations of those laws issued by superior courts. Administrative tribunals like the CHRT were created to provide access to justice that is expedient, timely, accessible and administered by subject experts.

On December 10, 2018, the Tribunal members and staff took a moment to celebrate and acknowledge the 70th anniversary of the United Nations Universal Declaration of Human Rights (UDHR). In the aftermath of the Second World War, the international community vowed to never again allow the atrocities of that conflict to happen again. Over a two year period, over 50 countries participated in the final drafting of the UDHR, and it was adopted by the general Assembly of the United Nations in Paris on December 10, 1948.

Article 8 of the UDHR anticipated the role of tribunals like the CHRT: *"Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law."*

Seventy years later, here we are, making this effort to live up to the aspirations of those international delegates who held such a bold vision for the future.

Looking forward again, in 2018 the Government introduced two significant pieces of legislation that will affect the CHRT in years to come.

Firstly, Bill C-81, the *Accessible Canada Act*, will add to the existing rights and protections for people with disabilities, including those found in the *Canadian Charter of Rights and Freedoms*, the *Canadian Human Rights Act* and the *United Nations Convention on the Rights of Persons with Disabilities*, ratified by Canada in 2010. The purpose of Bill C-81 is to make Canada barrier-free in areas under federal jurisdiction. Subject to Royal Assent, the role of the Canadian Human Rights Tribunal will be expanded to become a forum for appeals of decisions made by the Accessibility Commissioner, who will be part of the Canadian Human Rights Commission.

Secondly, Bill C-86 introduces the *Pay Equity Act*, which is designed to achieve pay equity through proactive means by redressing the systemic gender-based discrimination experienced by employees in positions in predominantly female job classes. A Pay Equity Commissioner will be established within the Canadian Human Rights Commission. The role of the CHRT will be expanded to include: a forum for appeals of decisions that are rendered by the Pay Equity Commissioner; and,

a forum for determination of important questions of law or questions of jurisdiction referred by the Pay Equity Commissioner.

While both these initiatives are still in early stages, the CHRT and its Secretariat have already commenced considerable preparation work starting with analysis of the Bills, planning and identification of requirements for implementation, capacity building, as well as the impact assessment on our limited resources. This work is compounded by the fact that the CHRT is no longer the master of its own finances. Since the creation of the Administrative Tribunals Support Service of Canada (ATSSC) in 2014, all budget decisions are in the hands of the ATSSC Chief Administrator, who has the financial authority for 11 federal tribunals. The creation of new positions within the CHRT Secretariat, and the establishment of long-term stability in our leadership require close coordination with the ATSSC to ensure our respective objectives are harmonized.

In the meantime, the work load of the CHRT continues to increase. In 2018, the Tribunal continued to be responsive to an increasingly complex array of cases before us. The Tribunal held 181 Case Management Conference calls to support the parties to move forward to the Hearing stage. In addition, the CHRT held 54 in-person mediation sessions (22 of which settled reflecting a 41% success rate.) We held 107 hearing days, and released 34 rulings and decisions, including one consent order. In total for 2018, we closed 55 complaint files and we received 96 new complaints referred by the Commission, increasing the total number in our caseload from 225 up to 266.

In last year's Annual Report to Parliament, I raised the issue of processing times, and how lengthy a CHRT inquiry is in many cases. With the addition of three full-time Members at national headquarters in 2018, and the recent announcement of the appointment of our new Vice-chairperson, it is my sincere hope that we can work towards reducing our processing times.

I was also heartened by the response to last year's Annual Report by the then Minister of Justice, the Hon. Jody Wilson-Raybould. The Minister invited me to meet with her and her officials to discuss how we might better serve Canadians. After a fruitful meeting, we were encouraged to continue to develop proposals on how we might improve access to justice for Canadians.

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Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law. –UDHR

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In 2018, the CHRT hosted the second, biennial National Human Rights Tribunals' Forum, with participants from ten provincial and territorial human rights tribunals converging in Ottawa to share knowledge and best practices. It was another highly successful event and we are looking forward to hosting the Forum again in 2020. See the photo of the 2018 Forum participants on page 18.

As the case load of the CHRT expands, and as our mandate increases under new legislation, the Tribunal will need to have more members appointed. Under the Government's new Governor in Council Appointments process, emphasizing qualification, merit and transparency, I have worked with a team of stakeholders, including the Prime Minister's Office,

the Privy Council Office, the Office of the Minister of Justice and the Department of Justice, to recruit and identify suitable candidates. At the time of publishing this report, the Tribunal has 12 Members (excluding former Members who remain seized with cases that are not yet concluded). Five are full-time Members based in Ottawa and the remaining 7 part-time Members are based all across Canada. I am hopeful that we can increase our complement to the maximum of 15 Members in the coming months. Under the changes contemplated in Bill C-86, the Tribunal will be able to increase to a maximum of 18 Members.

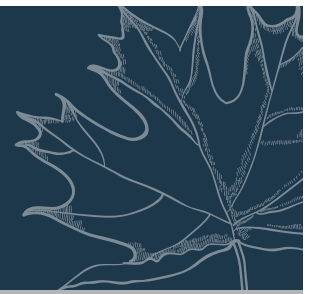
At the same time as we are increasing our capacity, we have continued to work to de-mystify our process for the parties before us. In 2018, we finished four instructional videos that now appear on our website. Our goal is to make all parties, especially those self-represented, feel as comfortable and prepared as possible for the human rights resolution process that we deliver. This work will continue as we always strive to live up to the expectations that Parliament and all Canadians have of us.

Original signed by
David L. Thomas,
Chairperson

The Canadian Human Rights Tribunal emblem explained:

Canada is written at the very top to symbolize our representation of the Canadian Government. The **wreath of olive branches** is a reminder of the United Nations logo, because much of our work is premised on the United Nations' Universal Declaration of Human Rights. The multi-dimensional **half maple leaf** in the upper left quarter has been borrowed from our sister organization, the Canadian Human Rights Commission. The **scales of justice** in the upper right quarter represent the nature of our work at the Tribunal – weighing evidence before us and rendering decisions impartially. Finally, in the bottom half, the Tribunal's initials appear in both official languages: **CHRT/TCDP**.

WHAT WE DO



The Canadian Human Rights Tribunal is a quasi-judicial body that inquires into complaints of discrimination referred to it by the Canadian Human Rights Commission and decides whether the conduct alleged in the complaint is a discriminatory practice within the meaning of the *Canadian Human Rights Act (CHRA)*. The Tribunal can also review directions and assessments made under the *Employment Equity Act*.

The Tribunal operates pursuant to the *Canadian Human Rights Act*, which aims to give effect to the principle that all individuals should have an equal opportunity to live their lives unhindered by discriminatory practices based on race, national or ethnic origin, colour, religion, age, sex, sexual orientation, gender identity or expression, marital status, family status, genetic characteristics, disability or conviction for an offence for which a pardon has been granted or in respect of which a record suspension has been ordered. The Act prohibits certain discriminatory practices with a view to protecting individuals in employment, and in the provision of goods, services, facilities, and in leasing commercial or residential premises.

Like a court, the Tribunal must be—and must be seen to be—impartial. It renders decisions that are subject to review by the Federal Court at the request of any of the parties. However, the Tribunal provides a less formal setting than a court, where parties can present their case without strictly adhering to complex rules

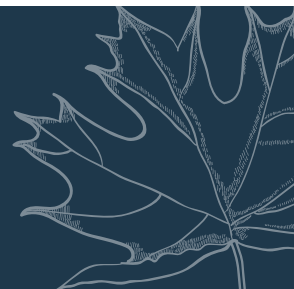
of evidence and procedure. The Tribunal also offers mediation services where parties have the opportunity to attempt to settle their dispute with the assistance of a Tribunal Member acting as a mediator.

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The Tribunal operates pursuant to the *Canadian Human Rights Act*, which aims to give effect to the principle that all individuals should have an equal opportunity to live their lives unhindered by discriminatory practices...

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The Act applies to federally regulated employers and service providers, including: federal government departments and agencies; federal Crown corporations; chartered banks; airlines; shipping and inter-provincial trucking companies; telecommunications and broadcasting organizations; and, First Nations governments.



HOW THE TRIBUNAL WORKS

Tribunal Members conduct mediations, engage in case management, preside over hearings, issue rulings and render decisions. Parties to a complaint include the complainant, the respondent, the Commission, and, at the discretion of the Tribunal, any other interested parties.

MEDIATION

Parties to proceedings before the Tribunal have the option of trying to address their differences through voluntary and confidential mediation. The goal of the mediation is to try to reach a solution to the dispute between the complainant and the respondent in an informal environment. If an agreement is reached at mediation, there will be no hearing.

The mediator is a neutral and impartial Member of the Tribunal with expertise in human rights matters, whose role is to assist the parties to a complaint with resolving their differences through the negotiation of a settlement agreement. The mediator is there to facilitate discussions between the parties and ensure that they occur in an atmosphere of good faith, courtesy and respect. The mediator has no power to impose a solution or agreement.

CASE MANAGEMENT

Before proceeding to a hearing, Members engage in case management to resolve a variety of preliminary issues. Case management conference calls with all parties are often used as an expedient way to guide parties, resolve disclosure issues, explore agreed statements of facts

and to settle any other preliminary matters, such as hearing dates and venue. The calls often establish the commitment of the parties to abide by their hearing schedule. Case management aims to ensure a fair approach to the inquiry process and to minimize missed deadlines, requests for adjournments on hearing days, and disagreements between parties about the issues being heard.

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A hearing is held in a court-like setting where the parties to the complaint are given the opportunity to present their witnesses' testimony, other evidence and argument to the Tribunal.

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HEARING

A hearing is held in a court-like setting where the parties to the complaint are given the opportunity to present their witnesses' testimony, other evidence and argument to the Tribunal. The objective of the hearing is to allow the Tribunal to hear the merits of the case directly so it can determine on a balance of probabilities, whether or not discrimination has occurred. At the hearing the parties may also present evidence and submissions on the appropriate remedy to be ordered, in the event the complaint is substantiated. The length of the hearing depends on such factors as complexity of the case, the number of witnesses and the volume of documentary evidence.

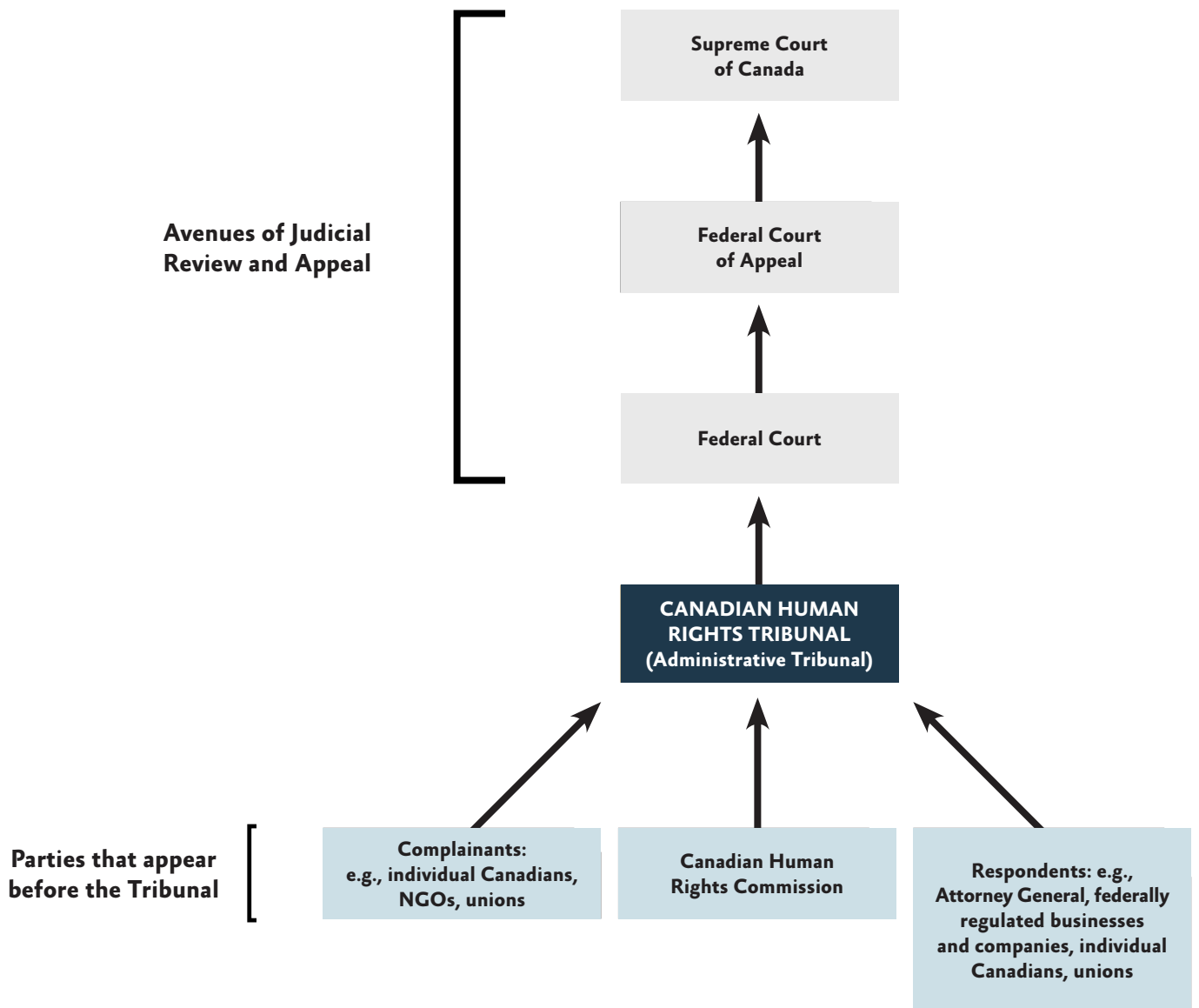
RULINGS

All sets of adjudicative reasons issued by the Tribunal that do not qualify as decisions (i.e., they do not answer the question of whether a discriminatory practice occurred) are classified as rulings. Rulings are usually issued in response to a preliminary motion raised by one of the parties before the hearing. For example, a ruling would be issued where a complaint is dismissed for lack of jurisdiction, abuse of process, delay, irreparable breach of fairness, or where the issue before the Tribunal is a motion for some type of procedural or evidentiary order (e.g., disclosure of documents, etc.).

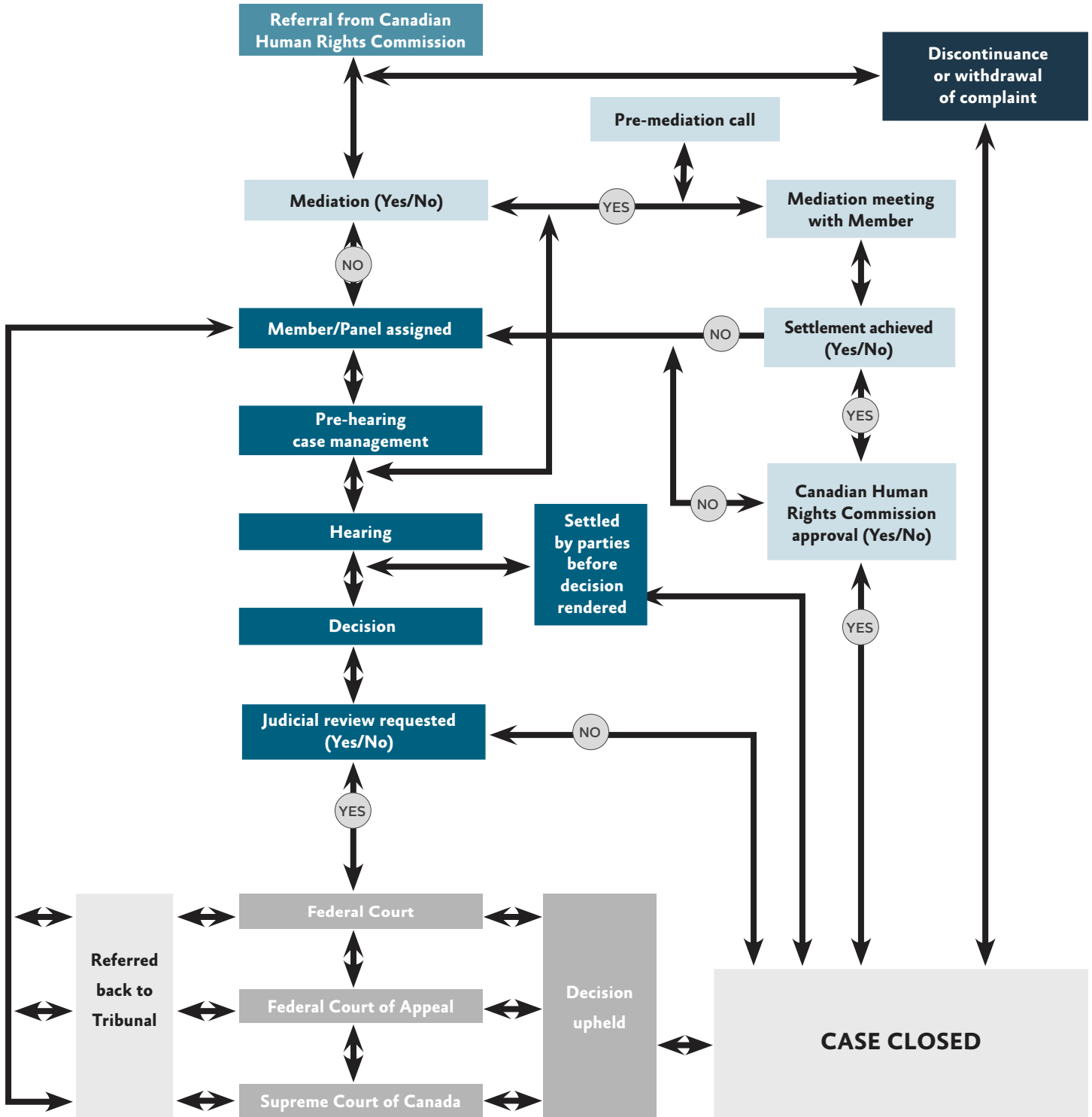
DECISIONS

For the purpose of this report, a decision is defined as a set of adjudicative reasons issued by a Member or Panel of the Tribunal following a hearing, which relate to and ultimately answer the question of whether a discriminatory practice occurred in a given case. If a complaint is substantiated, the decision may also order a remedy to rectify the discrimination, and will provide reasons in support of the order.

PARTIES BEFORE THE TRIBUNAL AND AVENUES OF JUDICIAL REVIEW AND APPEAL

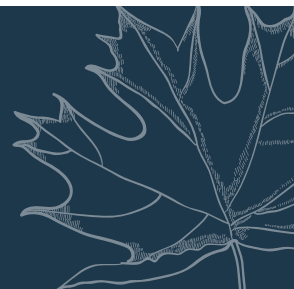


TRIBUNAL INQUIRY PROCESS AND JUDICIAL REVIEW



TRIBUNAL CASELOAD

(JANUARY 1 – DECEMBER 31, 2018)



CASELOAD

The Tribunal started the year with 225 complaints. After closing 55 complaints and receiving a total of 96 new complaints referred by the Commission, the year ended with 266 active complaints.

CASELOAD JANUARY 1 – DECEMBER 31, 2018	
Active caseload as of January 1	225
Complaints closed	55
New complaints referred by the Commission	96
Active caseload as of December 31	266

Fifty-five (55) complaints were closed in 2018. Of the 55 closed complaints, 22 complaints were settled at mediation; 20 were settled between the parties; 8 complaints were withdrawn; and, 5 final decisions were rendered.

CLOSED COMPLAINTS	
Settled at Mediation	22
Settled Between the Parties	20
Complaints Withdrawn	8
Final Decisions Rendered	5
TOTAL	55

VOLUNTARY MEDIATIONS

The Tribunal continued to offer voluntary mediation as an alternative dispute mechanism. Thirty-three (33) pre-mediation conference calls were held with the parties to clarify issues and ensure shared understanding of the procedures. Fifty-four (54) mediations were held in person; 22 (or 41 percent) of which were settled at mediation.

MEDIATIONS JANUARY 1 – DECEMBER 31, 2018		
Pre-Mediation Conference Calls	Held in-person	Settled at Mediation
33	54	22 (41%)

ADJUDICATION

The Tribunal held 181 case management conference calls and 107 hearing days. By year-end, 24 Rulings, and 10 Decisions were released.

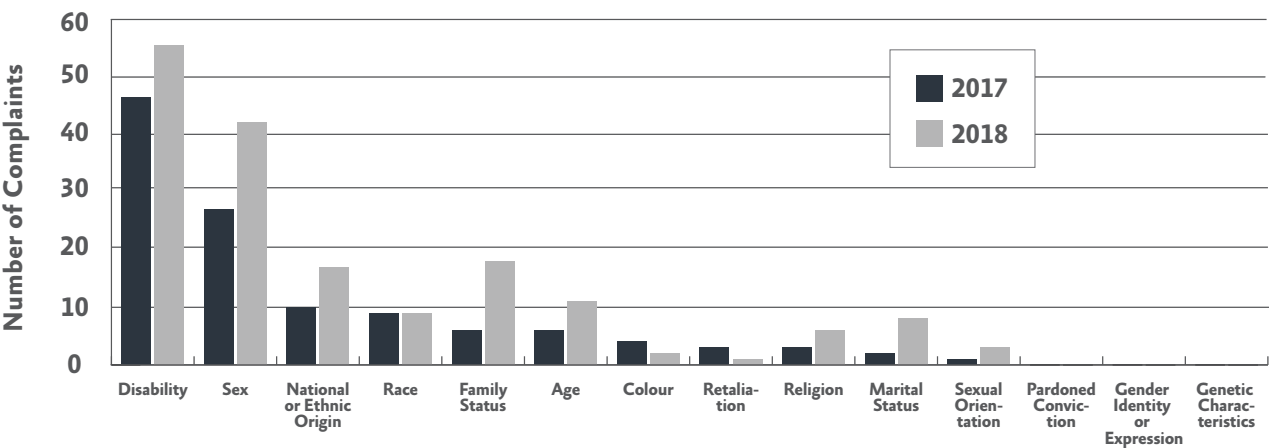
ADJUDICATION JANUARY 1 – DECEMBER 31, 2018			
Case Management Conference Calls	Hearing Days	Rulings	Decisions
181	107	24	10

COMPLAINTS BY PROHIBITED GROUNDS OF DISCRIMINATION

A comparison between 2017 and 2018 shows that complaints related to disability have increased from 45 to 55 and remain as the most prevalent ground of discrimination. Complaints based on sex have increased from 27 to 43; those based on national or ethnic origin increased somewhat from 10 to 16 and those based on race remain the same at 9. Complaints based on family status tripled from 6 to 18; those based on age increased from 6 to 11. Complaints based on colour decreased from 4 to 2; those based on retaliation decreased from 4 to 1, and religion doubled from 3 to 6. Complaints based on marital status increased from 2 to 8; and sexual orientation increased from 1 to 3. No complaints were referred on the ground of conviction for which a pardon has been granted, gender identity or expression, or genetic characteristics.

It should be noted that a discriminatory practice includes a practice based on one or more prohibited grounds of discrimination or on the effect of a combination of prohibited grounds. While retaliation is not a prohibited ground of discrimination, complaints alleging retaliation under s.14.1 of the CHRA need not invoke a prohibited ground – thus they form a separate category of complaint.

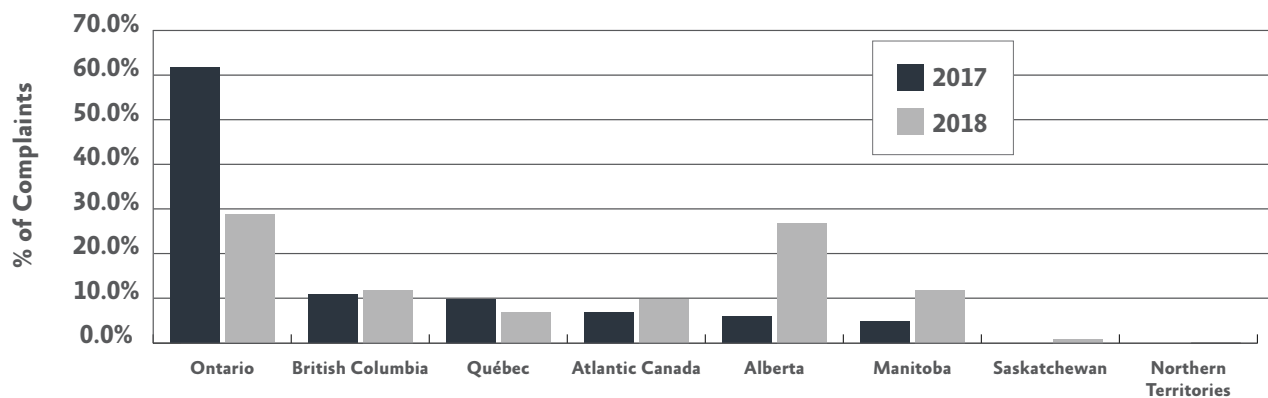
COMPLAINTS RECEIVED 2017 AND 2018 BY PROHIBITED GROUNDS OF DISCRIMINATION



COMPLAINTS BY PROVINCE

The highest proportion of complaints received continued to be from Ontario, although between 2017 and 2018 the number declined significantly from 62.7% to 29.3%. Complaints from Alberta showed a considerable change – jumping from 4.5% in 2017 to 26% in 2018. Similarly, complaints from Manitoba went up from 4.5% to 13.5%. Complaints from Québec went down from 10.4% to 6.3%; those from Atlantic Canada increased from 6.0% to 10.4%. Complaints from British Columbia went up slightly from 11.9% to 13.5%; Saskatchewan went from nil to 1.0%. Complaints from Canada’s three northern territories remained the same at 0.0%.

COMPLAINTS RECEIVED IN 2017 AND 2018 BY PROVINCE



COMPLAINTS BY RESPONDENT TYPE

Out of the total 96 complaints received in 2018, the following respondents were named from highest to lowest: The Federal Government (32), Union/ Association/Group (11), Individual (10), Transportation (10), First Nations Government (8), Airline (6), Rail (6), Crown Corporation (4), Financial Industry (3), Telecommunications (3), Other (3).

NEW COMPLAINTS RECEIVED IN 2018 BY RESPONDENT TYPE

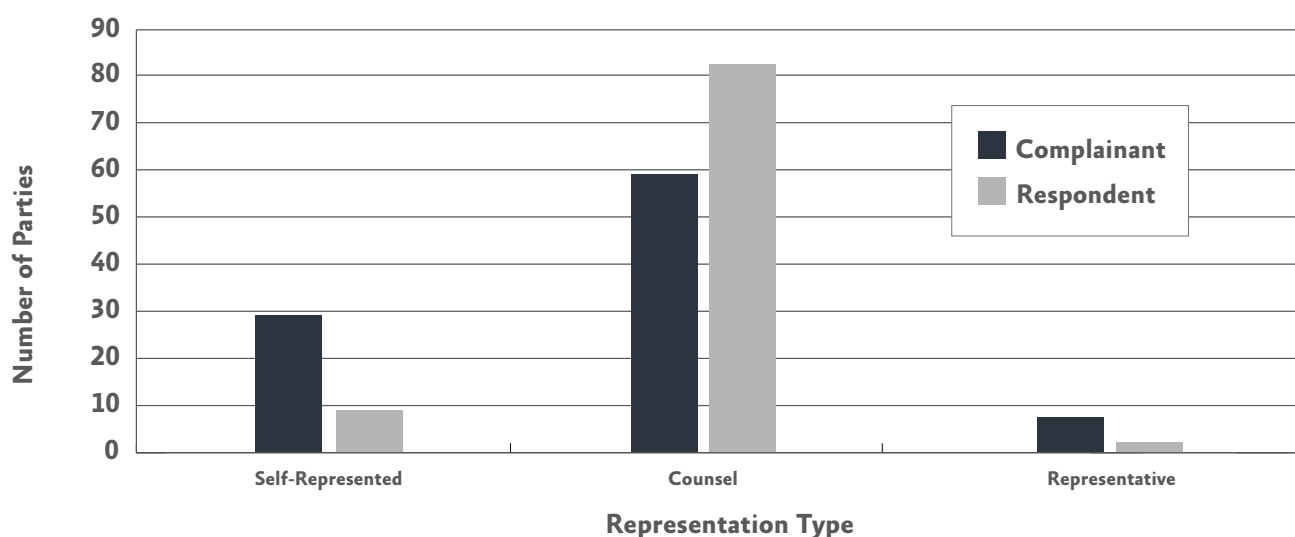
RESPONDENTS	NUMBER
Federal Government	32
Union/Association/Group	11
Individual	10
Transportation	10
First Nations Government	8
Airline	6
Rail	6
Crown Corporation	4
Financial Industry	3
Telecommunications	3
Other	3
TOTAL	96

REPRESENTATION OF PARTIES

Of new complaints received in 2018, the number of self-represented complainants remains high (29) compared to self-represented respondents (9). This is in keeping with previous years. The number of complainants represented by counsel (59) remained low compared to respondents represented by counsel (84). However, this represents an increase in representation by counsel from 49.25% in 2017 to 61.5 % in 2018.

The number of complainants represented by a non-lawyer (8) is higher than respondents represented by non-lawyers (3).

REPRESENTATION OF PARTIES – COMPLAINTS RECEIVED IN 2018



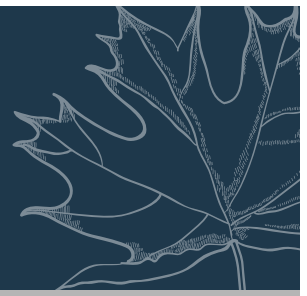
CARRIED TO NEXT REPORTING YEAR

A total of 266 Active Complaints were carried over to January 1, 2019, where 71 remained in case management; 55 were in mediation; 4 were settled but were awaiting the Commission's approval; 7 were in active Hearing; and 25 were awaiting Rulings or Decisions.

There is a cluster of 90 complaints awaiting a ruling on motion. There are 3 complaints in which a decision has been rendered and the decision is under appeal. Another 2 active files are under appeal. Six (6) files are on hold pending the parties' response. Three (3) complaints have had decisions rendered, but the time to appeal to a superior court has not yet expired.

ACTIVE COMPLAINTS CARRIED AS OF JANUARY 1, 2019	
STATUS	NUMBER
Case Management	71
Mediation	55
CHRC Review of Settlement Pending	4
Hearing	7
Ruling/Decision Pending	25
Ruling pending on complaint cluster	90
Decision rendered, under appeal	3
Active files under appeal	2
Files pending parties' response to initial letter	6
Decision rendered, appeal time has not expired	3
TOTAL	266

SIGNIFICANT TRIBUNAL DECISIONS AND RULINGS



The following case summaries provide information about some Tribunal decisions that were particularly significant in their impact.

1. **EMMETT v. CANADA REVENUE AGENCY, 2018 CHRT 23**

Ms. Emmett alleged that she was discriminated against on the grounds of sex and/or age. She claimed her employer, the Canada Revenue Agency (CRA), denied her employment opportunities because she was a woman, and was over the age of 50.

Ms. Emmett worked for the CRA from 1981 until her retirement in 2011. Wanting to become a Tax Service Office (TSO) Director in the Greater Toronto Area, she expressed interest in acting assignments and applied for selection processes at the TSO Director level. Aside from one acting assignment, Ms. Emmett claimed the CRA bypassed her for TSO Director job opportunities in favour of male colleagues who were equally or even less qualified than her, and females who were younger than her.

Although Ms. Emmett believed she should be promoted to a TSO Director position because of the number of years of experience she accumulated as an executive in the CRA with audit experience, the Tribunal found that this was not how promotions were awarded in the CRA. As well, because the number of positions was small and the pool of potential candidates significantly larger, achieving such promotion would have been very difficult and challenging for anyone. Additionally, evidence showed that there were other executive-level positions within the CRA and the federal public service that Ms. Emmett could have applied for but chose not to.

It was shown that Ms. Emmett did not follow the advice of her peers and supervisors on what steps she should have taken to advance her career and perform better in selection processes, nor did she take advantage of the tools offered to improve her skills, namely training, mentorship, and executive-level support. Ms. Emmett was also offered opportunities to step into other executive roles on several occasions to gain some of the experience required, yet, for the most part, she declined such opportunities.

Although the Tribunal had no doubt Ms. Emmett was an experienced executive, it could not conclude that gender and/or age was a factor in the CRA's decision not to staff opportunities with Ms. Emmett. The Tribunal found it clear that the CRA made its decisions based on the business needs of the organization, and that Ms. Emmett was out-performed during hiring processes by both male and female candidates, whether younger or older, because they had the broader experience required to staff the positions and because they performed better during interviews. The Tribunal concluded that Ms. Emmett was provided with an opportunity equal with other individuals to act in various roles within the CRA without being hindered or prevented from doing so by discriminatory practices as set out in Section 2 of the *Canadian Human Rights Act*.

RESULTS FOR CANADIANS

This decision provides guidance on some aspects of systemic discrimination, compound discrimination, and the relationship between sections 7 and 10 of the *Canadian Human Rights Act*. Generally speaking, paragraph 10(a) of the Act prohibits an employer from pursuing discriminatory policies or practices. Individual

acts of purported discrimination in the context of employment are prohibited under section 7 of the Act. However, the Tribunal is guided by the teachings of the Supreme Court, which explain that it is not necessary or conceptually helpful to divide discrimination into these two discrete categories; the inquiry is into whether there is discrimination, period. Finally, in this decision the Tribunal reconsiders previous case law on the complainant's burden of establishing that discrimination occurred, and also addresses the confusion created by the use of the term "prima facie."

2. DIXON v. SANDY LAKE FIRST NATION, 2018 CHRT 18

In 2013, Mr. Dixon filed a complaint with the Canadian Human Rights Commission (CHRC) against the Sandy Lake First Nation for discrimination on the grounds of national or ethnic origin and family status. This complaint was dismissed by the CHRC.

In 2014, Mr. Dixon discovered that printed correspondence related to the dismissed complaint had been enlarged to approximately 1.2 metres by 1 metre in size, and posted on a prominent wall at the community store. After receiving this information, Mr. Dixon filed a retaliation complaint under section 14.1 of the *Canadian Human Rights Act* against Sandy Lake First Nation.

On July 13, 2016, the CHRC referred the complaint to the Tribunal, to conduct an inquiry into the events surrounding the display of the CHRC letter at the community store.

The evidence demonstrated that the CHRC's decision letter for the original dismissed complaint was in fact enlarged and posted for at least a day and a half near the main public entrance of the Northern General store, where anyone from the community could see it.

The Tribunal found that the display of the letter in poster size, and its content, could be construed as adverse treatment. Access to the CHRC decision letter was limited to a small number of people, and it was not intended to be distributed publicly, especially without the consent of Mr. Dixon.

After hearing the evidence and assessing this particular situation, the Tribunal found that although Mr. Dixon did experience adverse treatment following the filing of his original complaint with the CHRC, the evidence did not establish, on a balance of probabilities, that this adverse treatment occurred under the direction of Sandy Lake First Nation Band and Council, or any person acting on their behalf. The Tribunal indicated that for the complainant's case to be successful, there needed to be something more than suspicions or presumptions. The Tribunal, therefore, dismissed Mr. Dixon's complaint.

RESULTS FOR CANADIANS

This case provided a somewhat rare opportunity for the Tribunal to explore an evidentiary issue that rarely arises before it: namely, ascertaining the identity of the perpetrator of the act forming the subject of a complaint. In most cases, the analysis centres on the characterization of the impugned conduct or decision: *e.g.* Did it adversely impact the complainant? Did it have a connection with a protected characteristic? The identity of the person who engaged in the conduct or made the decision in question is usually undisputed. Nonetheless—as this decision demonstrates—proving that the respondent was the person responsible for the discriminatory practice remains an essential component of the complainant's burden.

3. O'GRADY v. BELL CANADA 2018 CHRT 34

Ms. O'Grady, a former employee of Bell Canada, alleged that she had suffered discrimination on the basis of her mental illness disability, resulting in her dismissal.

Ms. O'Grady went on sick leave from June 7, 2006 to August 4, 2007, at which point she was placed on long-term disability (LTD) until April 20, 2009, when she hoped to return to work. Instead, Bell terminated her employment in April 2009 as part of their "100-day" restructuring plan.

Ms. O'Grady believed that the termination was a discriminatory practice, in that Bell failed to accommodate her disability through the continuation of LTD benefits after her termination. Her belief was that Bell, in order to end any obligation to pay LTD until her return to work or retirement, decided to terminate her employment.

The evidence presented established the seriousness of Ms. O'Grady's illness; however, Ms. O'Grady failed to provide evidence sufficient to persuade the Tribunal that her dismissal was related to her disability. As part of Bell's restructuring exercise, she would have been terminated even if she had not suffered from a disability. As a result of the respondent's 100-day plan, Ms. O'Grady's position was abolished, and no other employee was hired to replace her.

The Tribunal therefore dismissed Ms. O'Grady's complaint of discrimination. [An application for judicial review has been filed in respect of this decision: T-157-19]

RESULTS FOR CANADIANS

The scenario whereby a complainant's dismissal from employment comes in close temporal proximity to a long term disability-related absence requires the Tribunal to closely scrutinize both the stated reasons for the dismissal, as well as any other reasons suggested

by the evidence. A complainant need simply prove a connection between the disability and the dismissal, or that the former was a factor in the latter. This decision demonstrates, however, that contemporaneousness, without more, may not be sufficient to establish that an employee's dismissal was based in whole or in part on their disability. This is especially so where the evidence indicates the presence of an overarching, non-discriminatory reason for the employer's actions.

4. LEDOUX v. GAMBLER FIRST NATION, 2018 CHRT 26

The complainant, who suffered from heart and mobility issues, alleged that the respondent First Nation had discriminated against him on the ground of disability, and had retaliated against him for filing his complaint.

The Tribunal found that the complainant's homecare payments ceased because the complainant was not eligible to receive them; this was not discriminatory. As regards the respondent's alleged failure to build a wheelchair ramp at the complainant's house, the Tribunal found that the respondent promptly provided a temporary ramp. Then, when it learned that a better ramp was required in order to accommodate the complainant's motorized scooter, it funded and built a quality ramp in a reasonable time. The delay in the ramp's completion was not discriminatory. The Tribunal did not find that there was a deliberate attempt to delay the replacement of the complainant's water tank, in order to drive him from his house; rather, a routine process was followed leading to the replacement of several tanks, including the complainant's.

However, the evidence substantiated the complainant's allegation that the respondent gave away possession of his home during a period when he was away from the community, trying out assisted living at a lodge. After his departure, the respondent solidified the occupancy of another individual in the complainant's house, by

for example, transferring responsibility to her to pay for utilities. The respondent's attempts to cite rental arrears and a housing policy violation, while ignoring the complainant's appeal, were pretexts designed to deny him the ability to return to his house. This constituted discrimination based on disability in respect of residential accommodation.

Finally, the respondent had sent a memo to members of the First Nation, stating that it was discontinuing the service of providing bottled water to members, "because of the high cost of human rights complaints." The Tribunal found that this constituted retaliation within the meaning of the *CHRA*: the complainant's human rights complaint was broadly known in the community and the memo was clearly intended to blame the complainant, at least in part, for the loss of a service to band members.

The Tribunal ordered the respondent to compensate the complainant for pain and suffering, reckless conduct, and the net cost of his having to obtain alternative accommodation. The Tribunal also ordered the respondent to place the complainant's name, with priority status, on the list to obtain a wheelchair-accessible house. The respondent was ordered to submit, for review and approval by the CHRC, human rights policies that would be publicized to all members of the First Nation. Finally, the respondent was to engage a human rights specialist to provide training to the Chief, Council, employees and any interested members. [An application for judicial review has been filed in respect of this decision: T-1741-18]

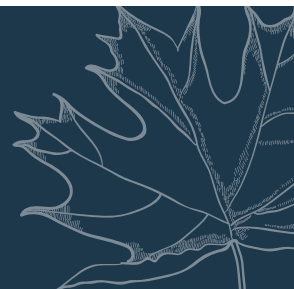
RESULTS FOR CANADIANS

This decision provided another opportunity for the Tribunal to interpret and apply section 6 of the *CHRA*, which thus far has not generated a large quantity of jurisprudence, considering it has formed part of the legislation since its original enactment. The application of a federal human rights statute to the sphere of residential accommodation is quite limited, given that most housing and tenancy matters fall under provincial jurisdiction. Nonetheless, where—as here—the housing at issue is under the authority of an Indigenous community, the *CHRA* applies. Another noteworthy aspect of this decision has to do with the remedy ordered. It involved the Tribunal ordering compensation for the additional costs of obtaining alternative accommodation, while taking into account the expenses the complainant would have incurred had he continued to occupy the original accommodation.

RULINGS ON MOTIONS AND OBJECTIONS

In addition to decisions, the full text of all written reasons in support of rulings rendered in 2018 on motions and objections can be found in the Decisions section of the Tribunal's website at www.chrt-tcdp.gc.ca.

TRIBUNAL ACTIVITIES



NATIONAL HUMAN RIGHTS TRIBUNALS' FORUM – JUNE 2018

On June 1 and 2, the Tribunal hosted the National Human Rights Tribunals' Forum, a biennial event that brings together federal, provincial, and territorial representatives of human rights in all these jurisdictions. This year, attendees received updates from the legal team of the CHRT Secretariat, and participated in discussions about judicial writing, alternative dispute resolution, remedies, and self-represented parties.

ANNUAL MEMBERS' MEETING – SEPTEMBER 2018

The Tribunal held its annual two-day meeting for Members on September 24 and 25. The agenda featured a presentation panel on Bill C-81, the *Accessible Canada Act (An Act to Ensure a Barrier-free Canada)*, led by representatives from the Canadian Human Rights Commission and Employment and Social Development Canada. In addition, attendees received an update on legal developments and jurisprudence, as well as an update on the 2018 National Human Rights Tribunals' Forum.



Attendees at the National Human Rights Tribunals' Forum

Front Row: Reema Khawja (NU), Brenda Picard (PE), David Thomas (Fed.), Susheel Gupta (Fed.), Maureen Doherty (NU), Ookalik Curley (NU)

Middle Row: Colin Baile (NT), The Honourable Ann-Marie Jones (QC), Kirsten Mercer (Fed.), Kathryn Raymond (NS), Carmen Gustafson (YT), Sherri Walsh (MB), Katherine Hardie (BC), Gabriel Gaudreault (Fed.)

Back Row: Frédéric Doucet (QC), Josée Bouchard (ON), Leslie Reaume (ON), Colleen Harrington (Fed.), Sheldon Toner (NT)

INTERNATIONAL OUTREACH – NOVEMBER 2018

Tribunal Chairperson David Thomas attended the [7th United Nations Forum on Business and Human Rights](#), in Geneva, Switzerland, from November 26 to 28. This annual event is the largest in the world, welcoming more than 2,000 representatives from a wide variety

of government and non-governmental organizations, including human rights institutions, business, law firms, UN bodies, and academia. The central theme of the 2018 forum was “Business respect for human rights – building on what works.”



The United Nations Forum on Business and Human Rights in action in Geneva, Switzerland, November, 2018.

VIDEO SERIES

As part of its ongoing efforts to improve access to justice, in December, 2018, the CHRT released its new [video series on Tribunal processes](#).

The series helps parties navigate the CHRT's preliminary process, mediation, pre-hearing case management, and hearing. Through the use of live-action footage,

colourful graphics, and easy-to-understand text, the videos offer a simple, relatable and engaging way for people to find out what happens after their complaint of discrimination is referred to the CHRT for inquiry.



Some stills from our video series, which walks people through our processes.

NEW MANDATES

Significant planning activities and impact assessments were started by the CHRT Secretariat to support the implementation of two new mandates: Bill C-81 (Accessible Canada Act – pending Royal Assent) and Bill C-86 (*Pay Equity Act*).

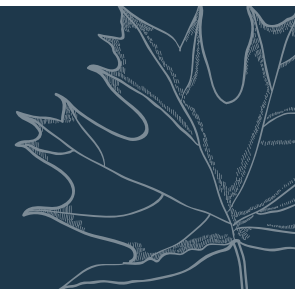
NEW MEMBERS SELECTION PROCESS

In June 2018, the Tribunal welcomed its newest part-time Member, Marie Langlois, of Quebec who was previously an administrative judge at the Administrative Labour Tribunal of Quebec.

After eight years of service with the Tribunal, Vice-chairperson Susheel Gupta retired from the CHRT in August 2018.

A significant amount of time was spent on the Governor in Council (GIC) appointment process to find a new Vice-chairperson. The selection process resulted in the appointment of Jennifer Khurana, with a start date of April 8, 2019. Ms. Khurana has significant experience and background in human rights at the provincial and international levels.

MEMBERS OF THE TRIBUNAL



The *Canadian Human Rights Act* specifies that a maximum of 15 Members, including a Chairperson and a Vice-chairperson, may be appointed by the Governor in Council. At the time of publishing this report, the Tribunal has a total of 12 Members. Five (5) full-time Members are based in the National Capital Region which includes the Chairperson and the Vice-chairperson (vacant until April of 2019). Seven (7) part-time Members are based across Canada; there are 3 Members whose appointments have expired, but who are concluding inquiries; 2 are based in Ontario and 1 is in Nova Scotia.

FULL-TIME MEMBERS

	NAME & TITLE	APPOINTMENT DATE	END OF TERM
1.	David Thomas, Chairperson	2014-09-02	2021-09-01
2.	Jennifer Khurana, Vice-chairperson	2019-04-08	2026-04-07
3.	Gabriel Gaudreault	2017-01-30	2022-12-29
4.	Kirsten Mercer	2017-01-30	2021-12-29
5.	Colleen Harrington	2018-01-29	2022-01-28

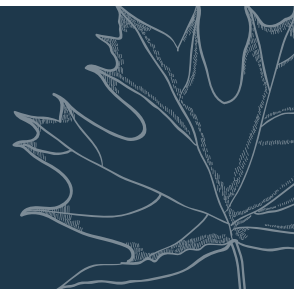
PART-TIME MEMBERS

6.	Dena Bryan, British Columbia	2015-03-26	2020-03-25
7.	Marie Langlois, Quebec	2018-06-21	2023-06-20
8.	Olga Luftig, Ontario	2012-12-13	2020-12-13
9.	Edward Lustig, Ontario	2008-02-17	2023-06-20
10.	Alex G. Pannu, British Columbia	2015-06-18	2020-06-17
11.	Anie Perrault, Quebec	2015-04-30	2020-04-29
12.	George Ulyatt, Manitoba	2012-12-13	2020-12-13

MEMBERS WHOSE APPOINTMENT HAS EXPIRED, BUT WHO ARE CONCLUDING AN INQUIRY THAT THEY HAVE BEGUN, WITH THE APPROVAL OF THE CHAIRPERSON, AS PER S. 48.2 (2) OF THE CANADIAN HUMAN RIGHTS ACT.

1.	Matthew D. Garfield, Ontario	2006-09-15	2016-09-14
2.	Sophie Marchildon, Ontario	2010-05-31	2017-12-30
3.	Lisa Gallivan, Nova Scotia	2014-05-09	2017-05-08

FOR FURTHER INFORMATION



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