Canadian Human Rights Tribunal
Tribunal canadien des droits de la personne

Building a CHRT that works for Canadians

Annual Report 2021

Canada

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SECTION 1

LAND ACKNOWLEDGEMENT

We prepared this report in Ottawa, the traditional unceded territory of the Algonquin Anishnaabeg people. We invite you to learn more about the people whose land you're on.

We all have a role to play in reconciliation. Tribunal Members and staff have embarked on their learning journey. We acknowledge we have more learning to do and will report on this going forward.

Reconciliation is an ongoing process that involves us all.

SECTION 2

WHO WE ARE AND WHAT WE DO

The Canadian Human Rights Tribunal is an administrative tribunal. We are less formal than a court. We are independent and function at arm's-length from the government. That means that no Minister or other official can tell the Tribunal how to decide its cases. We are accountable to Canadians, and report on our activity to Parliament through the Minister of Justice.

Under the *Canadian Human Rights Act*, the Tribunal hears cases of discrimination about federally regulated organizations, like the military, airlines, interprovincial trucking, banks, and the federal government. Tribunal Members (decision-makers) hear complaints of discrimination that have been referred to us by the Canadian Human Rights Commission. Tribunal Members review submissions and evidence, listen to witnesses and decide whether discrimination has occurred. If so, we can also rule on remedies. Parties can decide to settle their complaints through mediation or proceed to a hearing on the merits of the case.

The Tribunal also has new two new mandates. On August 31, 2021, the *Pay Equity Act* (PEA) came into force. The PEA requires employers to take a proactive approach to give men and women equal pay for doing work of equal value. The purpose is to achieve pay equity for employees in jobs commonly held by women. The Tribunal has two roles under the PEA:

- the Pay Equity Commissioner can refer an important question of law or jurisdiction to the Tribunal to determine; and
- an employer, bargaining agent or other affected person may appeal some of the Pay Equity Commissioner's decisions or orders to the Tribunal.

The Tribunal also has a new mandate under the *Accessible Canada Act* (ACA). The new law aims to ensure that everyone in Canada can fully participate in society. To do so, it requires federal organizations to proactively identify, remove, and prevent barriers to accessibility for persons with disabilities. Federal organizations will be required to create and publish accessibility plans and meet standards on accessibility requirements. Individuals can file a complaint with the Accessibility Commissioner if they were negatively affected by an organization's failure to respect the new standards. The Tribunal will decide appeals of certain decisions made by the Accessibility Commissioner.

As of December 31, 2021, the Tribunal consisted of an Acting Chairperson and three full-time members based in Ottawa. There are also seven part-time members who work from places across the country.

We are focussed on becoming a more accessible tribunal and will continue to work on initiatives that support justice as a service.

SECTION 3

MESSAGE FROM THE ACTING CHAIRPERSON

> *We will focus on building a tribunal that innovates, adapts and addresses the needs of our most vulnerable parties to make access to human rights justice meaningful.*

On behalf of the Canadian Human Rights Tribunal, I am pleased to present our 2021 Annual Report. I have been honoured to serve as Acting Chairperson since September of 2021.

The Tribunal hears human rights complaints alleging discrimination in the federal sphere. These cases matter — to the parties to the complaint and to Canadians. Our work engages fundamental questions of human dignity and protects the rights of all Canadians to equality, equal opportunity, fair treatment, and an environment free of discrimination. These are important and complex cases engaging such protected characteristics as disability, national or ethnic origin, race, colour, sex and gender identity or expression. They can involve individual claims but also include systemic claims of discrimination with far-reaching ramifications. Their determination merits a human rights tribunal that works for Canadians.

Canadians need – and we must deliver – a modern, accessible, inclusive human rights tribunal that adjudicates human rights claims in a fair, timely and proportionate way. Canadians trying to access justice before our Tribunal must understand the process, and the Tribunal decisions that affect them. We will focus on building a tribunal that innovates, adapts and addresses the needs of our most vulnerable parties to make access to human rights justice meaningful.

This past year saw considerable change and transition. This included the departure of David Thomas as Chairperson in September 2021 after 8 years of service with the Tribunal. We thank David for his commitment and for leading the Tribunal through its transition to the Administrative Tribunals Support Service of Canada and the first two years of the pandemic. We also welcomed 5 new part-time members to the Tribunal.

The Tribunal did not slow down during the pandemic and 2021 was no exception. We held a record number of mediations and hearing days in 2021. We continued offering our services entirely by video and phone. These virtual formats are now well-established as options for our parties.

> ***"In the last quarter of 2021, we started changing our process to make it simpler and easier for our parties, including a streamlined mediation process."***

We saw an unprecedented increase in our case load in the form of new referrals from the Canadian Human Rights Commission. We need to act quickly to respond to this new volume of cases, particularly as we begin our work under the *Pay Equity Act* which came into force in August of 2021.

In the last quarter of 2021, we started changing our process to make it simpler and easier for our parties, including a streamlined mediation process. We focused on facilitating member collaboration and building skills in case management so that our members are better equipped to deliver timely and proportionate decision-making.

We must also be transparent about where we are in this process. We must be open about what we are doing well, and where we need to improve. As a first step, we completed the Department of Justice Access to Justice Index, which helped identify the areas where we will focus our efforts in making change. We will post the results of this index as we set our priorities for 2022 and beyond.

"It is a privilege to be entrusted with such important work that impacts the lives of so many Canadians."

We will simplify the way we offer our services, communicating in plain and accessible language, and holding ourselves accountable through performance and service standards. We will listen, learn and report on what has changed.

We encourage you to share your views with us and to tell us what is – and is not – working. Reforming the Tribunal is also about building public confidence in our processes of human rights justice. We will be reaching out to our stakeholders in the coming year to start that dialogue.

I would like to thank the Tribunal's members, staff and everyone at the Administrative Tribunals Support Service of Canada who have worked so hard during difficult circumstances throughout the pandemic. They have embraced a mindset of change and welcomed a reorientation to a user-centred approach.

Jennifer Khurana
Acting Chairperson
Canadian Human Rights Tribunal

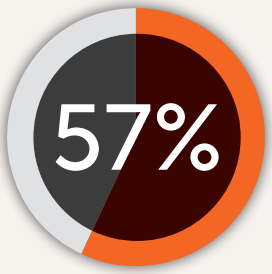
SECTION 4

2021 IN NUMBERS

Complaints referred to and closed by the Tribunal

153 Complaints referred to us by the Canadian Human Rights Commission

103 Complaints closed by the Tribunal in 2021[1]



of complainants **did not have legal representation**

At a glance...

2021

- **96 mediations involving 113 complaints**
  Success rate of 68% – all done virtually
- **124 days** from receipt of complaint to mediation session

218 **CMCCs** held

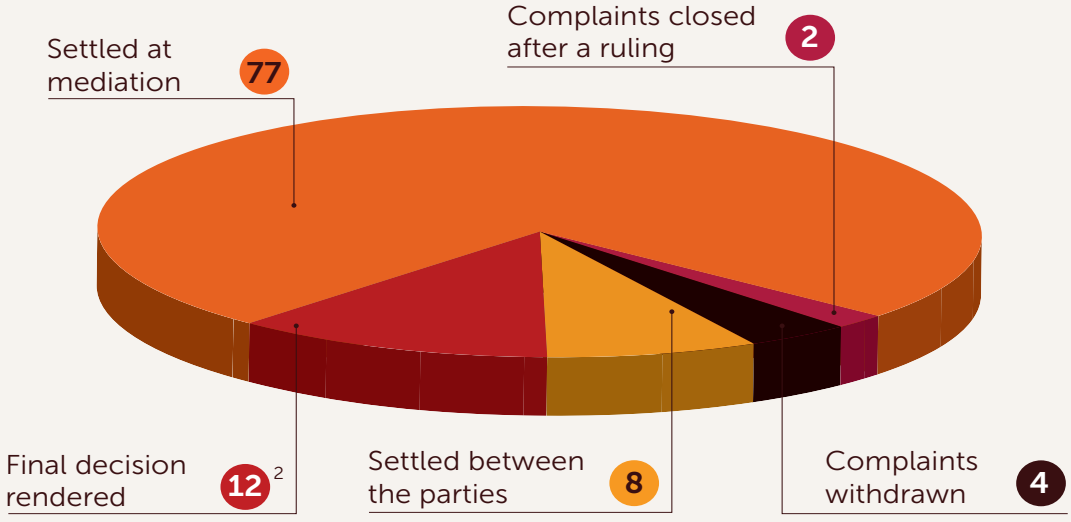
155 **hearing days**

2020

- **85 mediations involving 110 complaints**
  Success rate of 51%
- **142 days** from receipt of complaint to mediation session

208 **CMCCs** held

62 **hearing days**



1 In previous years, where Tribunal decisions were appealed (that is, under judicial review) before a court (for instance the Federal Court), these Tribunal decisions had been reported as "open". Tribunal decisions that are subject to judicial review (that is, that have been appealed) are now considered "closed". Eight (8) complaints were closed in 2021 for this administrative reason.

2 Two of these decisions have been appealed to the Federal Court.

Adjudication

The Tribunal is committed to effective case management of the complaints before it. This means we actively manage complaints to move them through the adjudicative process to help Canadians get timely decisions.

In 2021, we held 218 Case Management Conference Calls (CMCCs).

Case Management Conference Calls (CMCCs) are designed to address issues like the sharing of documents, identifying witness lists, and joining and amending complaints. Tribunal Members can also work with the parties to reduce issues in dispute, explore options for mediation and work to reduce the time needed for a hearing.

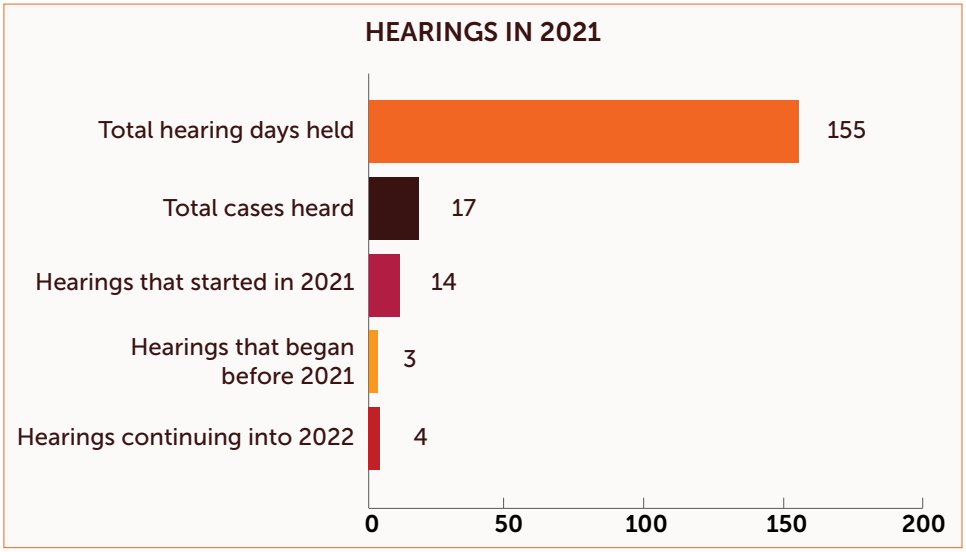
In 2021, Tribunal Members issued 31 rulings. Rulings usually address a topic that the parties need to resolve before a hearing can take place, but that could not be resolved in a CMCC. Many rulings address procedural issues. The Tribunal also issues directions to parties.

In contrast to a ruling, a decision is when a Tribunal Member issues written reasons that decide the core issues in the case. Usually a decision sets out whether discrimination occurred, and if so, determines what remedy should be ordered because of the discrimination. The Tribunal issued 12 final decisions in 2021.

Hearings in 2021

The Tribunal continued its successful pivot to videoconference hearings due to restrictions related to the COVID-19 pandemic.

"In 2021, all hearings were conducted by videoconference."

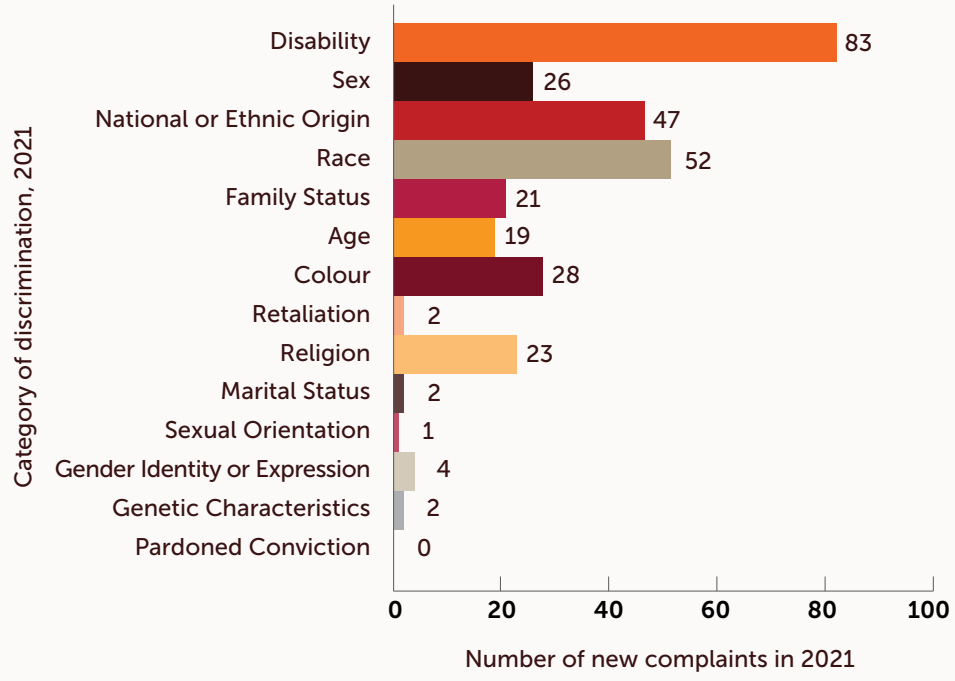


What we are still working on

Active complaints at the start of 2022: 405[3]

Of these active complaints, multiple grounds of discrimination are not uncommon. The bar chart below demonstrates the breakdown of categories of discrimination for new complaints in 2021:

New complaints by categories of discrimination 2021

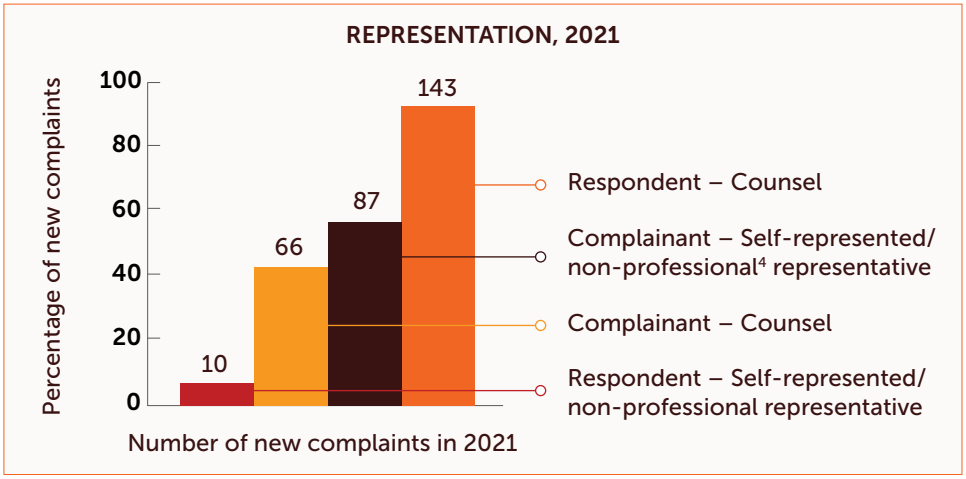


3 Of these 405 active complaints, 59 are on hold for a review process related to security considerations.

Representation

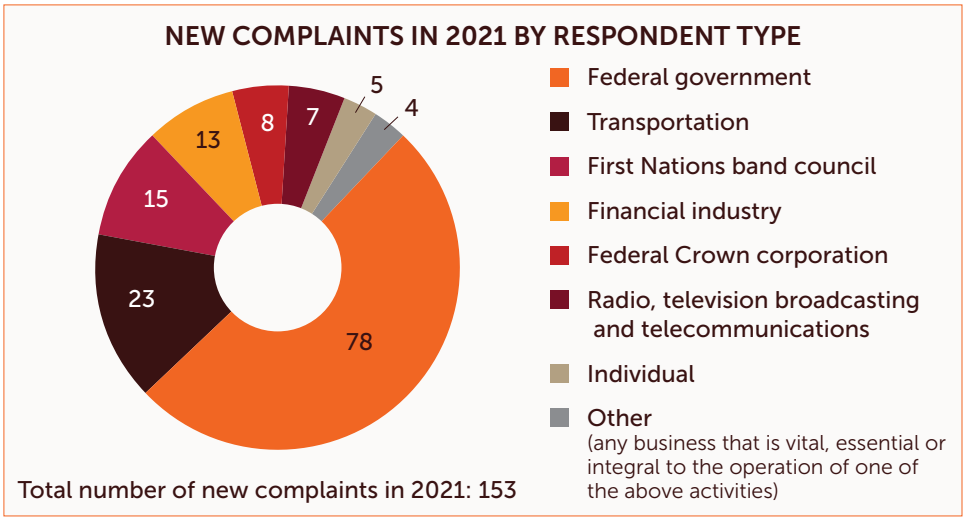
Complainants are the persons that allege discrimination.

Respondents are the organizations (or persons) that deny the alleged discrimination.



Types of respondents

In 2021, over half of the respondents were federal government agencies or departments.



4 Non-professional representation is support offered by someone who is not a lawyer or a paralegal.

SECTION 5

MEDIATION

Mediation is a voluntary and confidential option for parties who want to try to resolve their complaint before it goes to a hearing. The parties work with a Tribunal mediator to settle the complaint. If no agreement is reached, there will be a hearing.

Settling a complaint in mediation is faster than going to a hearing. The parties control the process and can decide the outcome. Mediation can also save the parties a lot of time and money, including in legal fees. The Tribunal can appoint a mediator early on in the process, or can work with the parties as the case moves forward in case management to try to facilitate settlement at any stage.

In 2021 we continued to conduct all mediations by videoconference, telephone, and even by email. This shift to the virtual environment allowed parties to more quickly schedule and access mediation services and reduced parties' costs.

We will continue to focus on alternative dispute resolution in the coming years and work to improve how we offer our mediation services in all complaints.

Making mediation easier for our parties

In the fall of 2021, the Tribunal simplified its process to make it easier for the parties to prepare for a mediation. This streamlined approach also means that if the parties do not resolve the complaint in mediation, they can save their resources and time to prepare for case management and a hearing. We introduced a simplified Mediation Form to help the parties focus their efforts in trying to resolve the complaint. We are surveying users to see if this new approach works, and will continue adapting to improve our mediation service.

> *"In 2021 we continued to conduct all mediations by videoconference, telephone, and even by email."*

The majority of parties want to mediate

In 2021, 153 complaints were referred to the Tribunal by the Canadian Human Rights Commission.

In 65% of our complaints, the parties agreed to mediate.

We conducted more mediations

We conducted 96 mediations in 2021 involving 113 complaints.

This is an increase in mediations over 2020, where we conducted 85 mediations.

We are also conducting mediations more quickly

On average, it took us **124 days** from the time we received a complaint from the Commission until we sat down with the parties to mediate.

And we are getting positive results in the virtual world too

As noted, **in 2021, 96 mediations were held**. They involved 113 complaints. Of these, 77 complaints settled.

This is a success rate of 68%.

All mediations conducted in 2021 were done virtually, by videoconference, phone or email.

In 2021, we closed five complaints that had been mediated in previous years and where settlements were only final in 2021.

SECTION 6

RULES OF PROCEDURE UNDER THE *CANADIAN HUMAN RIGHTS ACT*

On July 11, 2021, the Tribunal formally adopted new rules of procedures. These rules came into force under the the Canadian Human Rights Act and replaced rules the Tribunal had been using since May 1, 2004.

At the outset of this project, we asked those interested in human rights to provide feedback on how our rules could be improved. The goal of the Tribunal was to end up with a set of rules that would help parties resolve human rights complaints quickly, efficiently, and fairly.

Modernizing our rules and making the Tribunal processes easier to understand supports simpler and faster proceedings. Our new rules recognize that we need to give our parties as many options as possible. For example, the rules allow parties to share documents and communicate by email and allow for hearings by videoconference.

The new rules also include many practices that we developed over time. For example, the rules require additional details in the Statements of Particulars. Previously these details were requested on a case-by-case basis. Requiring these details for all cases allows parties and the Tribunal to better prepare for the hearing.

To improve transparency and accountability, and to establish expectations for Canadians, the rules require the Tribunal to release a ruling on a motion within three months. The final decision on the merits of a case must be given within six months of the hearing. If a decision is taking too long, the Chairperson also has the power to reassign the matter to a different decision-maker, after consulting with the parties.

"The Tribunal is monitoring the new rules to see how well they are working."

The new rules have introduced the following changes:

- Rule 9 explains the consequences if rules and orders are not followed.
- A rule requires parties to file the documents they intend to use at the hearing. Rule 36(1) states that parties are required to file the documents with the Tribunal and inform the other parties at least 30 days before the beginning of the hearing.
- A rule (Rule 47) defines the Tribunal's official record, access to that record and retention of the record, to clarify the public's right of access to exhibits and other documents.
- Rules 18 to 20 give more detailed requirements for statements of particulars to help parties identify the alleged discrimination, the remedies sought, and the respondent's explanation.

Our new rules apply to all new cases referred to the Tribunal. Where a case had already started under the previous rules, parties were given the option of switching to the new rules if everyone agreed. If not, they continued with the old rules for the rest of the case.

The Tribunal is monitoring the new rules to see how well they are working. We continue to welcome any feedback from parties and other stakeholders.

SECTION 7

SUMMARIES OF SOME CASES WE DECIDED **THIS YEAR**

The following cases are examples of the variety of matters and complexity of issues our Tribunal Members decide. The Tribunal's decisions are published on our website.

West v. Cold Lake First Nations, 2021 CHRT 1

Bonnie West is a Cree woman and member of Cold Lake First Nations (CLFN). In 2016, she tried to run for election as a councillor for the CLFN band council, but her nomination was rejected by the election officer. In making this assessment, the officer consulted a committee of Elders which advises on CLFN's traditional laws.

Ms. West did not give the officer documents to establish that she met the requirements under CLFN's Election Law to be a candidate. No evidence was provided as to what the officer's decision would have been if he received the relevant documentation. No evidence was given as to the content of discussions that took place between the officer and the committee of Elders.

Ms. West said that CLFN discriminated against her in the provision of services based on her race, national or ethnic origin (Cree) and her family status (her father was adopted by members of CLFN). She also argued that CLFN's Election Law discriminated against her.

The Tribunal found that processing Ms. West's nomination is not an activity that falls under the definition of "service customarily available to the general public" as described in section 5 of the *Canadian Human Rights Act*. Rather, the officer's role is to ensure compliance with the Election Law's criteria.

Ms. West took issue with the Election Law itself as well as the application of the selection criteria. Ms. West also argued that the procedure used to review her nomination was unfair. The Tribunal found these challenges should have been brought before the Federal Court of Canada. The Tribunal does not have jurisdiction to deal with this part of the complaint.

Ms. West had also stated that CLFN retaliated against her daughter because of the filing of the human rights complaint. She claimed that her daughter did not receive the house in the community that she had been promised by CLFN. The evidence presented showed that the house was assigned to someone else for reasons that have nothing to do with Ms. West's human rights complaint.

The Tribunal therefore dismissed both parts of Ms. West's complaint.

Smolik v. Seaspan Marine Corporation, 2021 CHRT 11

Andreas Smolik is a marine engineer. He had worked for Seaspan Marine Corporation for years when his wife died, leaving him a single parent of two children aged 6 and 9. After this loss, he told Seaspan that he needed a schedule that would work with his new childcare duties. Some of Seaspan's vessels are at sea for a 12-hour shift. Others are at sea for periods of 1 to 3 weeks at a time. Mr. Smolik did not feel he could leave his kids with a caregiver for weeks at a time. He requested either a regular schedule or flexible shifts near home.

It took Seaspan a long time to propose a return-to-work plan. When they did offer one, it did not have predictable shifts and was not close to full-time work. Seaspan did offer him an office position later on. However, Seaspan gave him very little time to accept and little information about the job. Mr. Smolik turned it down because he would have lost his engineer certification. This had been his trade for over 25 years. Eventually he had to ask for leave to work for other employers to earn a living.

Mr. Smolik claimed he was discriminated against based on his family status. Seaspan argued that Mr. Smolik's requests were more like "personal preferences". The Tribunal disagreed and found that being the only parent of two young, grieving children clearly falls under the definition of "family status". Seaspan claimed that Mr. Smolik did not do enough to find childcare. The Tribunal again disagreed.

The Tribunal analyzed the efforts Seaspan made to help Mr. Smolik to meet his childcare needs. It found that Seaspan did not do enough under human rights law.

Mr. Smolik was awarded $469,392.68 for lost wages, as well as $15,000 for his pain and suffering and $10,000 for willful or reckless discrimination. Additionally, Seaspan was ordered to pay $27,239.84 for lost pension and benefits contributions and $10,392.23 for health and dental expenses. The Tribunal also ordered Seaspan to work with the Canadian Human Rights Commission to ensure this type of discriminatory practice will not happen in the future.

In this case, Mr. Smolik belonged to a union. In unionized jobs, management, employees, and the union must work together to find accommodation solutions. Still, the Tribunal found that even where there is a collective agreement, the employer must always do its part to accommodate employees.

Seaspan asked the Federal Court to review this decision.

Chisholm v. Halifax Employers Association, 2021 CHRT 14

Graham Chisholm thought he failed an aptitude test in a hiring process because of his disability and age.

Mr. Chisholm did longshore work at the Port of Halifax. Mr. Chisholm was a casual worker doing manual labour. He applied to be in a pool of more skilled workers who received more work and were allowed to operate some of the port's machinery. This was a highly valued opportunity for port workers.

The hiring process had multiple steps. First, the longshore union reviewed the applications. It referred Mr. Chisholm's application to the Halifax Employers Association. Next, Mr. Chisholm took a strength and endurance test. This test was very physically demanding. Mr. Chisholm passed. Mr. Chisholm then took the aptitude test to assess his manual dexterity, spatial aptitude, and motor coordination. He failed this aptitude test because of his results on the spatial aptitude and motor coordination portions of the test.

A short-term injury can be a disability but there must be evidence to support it. Mr. Chisholm had a whiplash injury from a car crash three months before the tests. But the medical evidence did not establish that Mr. Chisholm still suffered from this injury at the time of the aptitude test. Also, the injury does not explain why he failed the spatial aptitude and motor coordination portions of the aptitude test.

Mr. Chisholm also said he had diabetes, arthritis and was colour blind. He said these also affected his score on the test. However, he did not explain how any of these conditions affected his aptitude test results.

Mr. Chisholm was 49 at the time of the tests. He said people over the age of 40 perform tasks more slowly and it is harder to complete the test in the time limit. However, the evidence showed that people over the age of 40 passed this stage of the testing at about the same rate as people under 40. Mr. Chisholm also did not produce any evidence to support his belief that he completed tasks more slowly because of his age.

The Tribunal found that the Halifax Employers Association did not discriminate against Mr. Chisholm in the hiring process.

R.L. v. Canadian National Railway Company, 2021 CHRT 33

This complaint is about discrimination and harassment in employment based on sex and disability.

The Complainant, at age 44, applied for the conductor training program run by Canadian National Railway Company (CN) and she was accepted. After 5 months of training, she suffered an injury during a night shift. Then she was removed from the program. CN said that, more than once, the Complainant had not followed its safety protocols. Also, she was not receptive to feedback meant to help her improve. The Complainant said that she had suffered harassment and discrimination by multiple male coworkers. She argued that she had been removed because she refused to stay quiet about the harassment, and because she was injured on the job.

The Tribunal had to decide if the Complainant was harassed because of her sex or disability. The Tribunal agreed that the Complainant was harassed based on sex by two CN employees who trained her in Vancouver. The Complainant reported these events to CN, but it did not properly investigate them. The Tribunal found that CN, as the employer of those individuals, was responsible. CN was ordered to pay to the Complainant $10,000 for "pain and suffering". It also had to pay $5,000 for acting recklessly by not following its own harassment policy.

The Tribunal also had to decide if the Complainant was sexually harassed. The Tribunal agreed that the Complainant was sexually harassed by one of her instructors in Winnipeg. Because the Complainant did not report the harassment to the employer, CN was not responsible for that behavior.

The Tribunal did not find that sex or disability were factors in CN's decision to remove the Complainant from the training program. She was removed because she lacked focus, which led to risky behaviours, she had difficulties with listening and learning, and she was not receptive to instructions.

First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)

This case is about systemic racial discrimination against First Nations children. In an earlier decision (2016 CHRT 2), the Tribunal found that Indigenous Services Canada underfunded child and family services for First Nations children, including prevention services. Prevention services support the principle of "least disruptive measures" to keep children in their homes, families and communities as much as possible. This principle recognizes the importance of keeping the bond between parents and children. It ensures that everything is done to avoid removing a child from home. The underfunding and lack of services led to First Nations children being removed from their homes, families and communities and placed in care as a first resort rather than as a last resort. In contrast, other children usually benefited from prevention services. This is systemic racial discrimination.

This decision also addressed Jordan's Principle. Jordan's Principle helps First Nations children receive services if governments cannot agree on who should pay for the service. Indigenous Services Canada took a narrow view of Jordan's Principle. The narrow interpretation meant Jordan's Principle did not help the children it was supposed to help. This is also systemic racial discrimination.

The Tribunal ordered a complete reform of child and family services for First Nations children. It also ordered Canada to give full effect to Jordan's Principle. The Tribunal is supervising this reform and sometimes releases additional rulings as needed. Many rulings have provided additional direction for systemic reforms. Other rulings addressed compensation for First Nation children and caregivers affected by the discrimination. However, the Tribunal encouraged the parties to settle outstanding issues.

Developments at the Tribunal in this case

The Tribunal issued multiple rulings this year in respect of this case.

One ruling explained how Indigenous Services Canada would pay compensation to victims who could not legally manage their own money because of their age or mental health (2021 CHRT 6). Another decision approved the framework the parties agreed on to distribute money to victims (2021 CHRT 7). Both these decisions were upheld during the judicial review of the compensation decision at the Federal Court (2021 FC 969).

The Tribunal's last ruling in this case this year was 2021 CHRT 41. The ruling addresses capital funding, for example for buildings. The Tribunal found that buildings are required to provide child and family services to First Nations children, and to provide services that were approved under Jordan's Principle. Without adequate buildings, services either cannot be offered or cannot be offered in a manner that meets legislative requirements like confidentiality. Remedying the discrimination identified in this case requires providing adequate buildings in which to deliver services.

This ruling confirmed that the orders relating to capital funding also applied in the unique Ontario context. Ontario law allows Band Representatives to represent the First Nation in child protection cases. Those services also require appropriate buildings.

Canada argued that the *Financial Administration Act* and the division of powers prevented the Tribunal from ordering remedies that have a significant financial impact on the government's ability to allocate funds and make policy choices. In this ruling, the Tribunal found that Canada must address proven discrimination. The discrimination in this case included underfunding. Therefore, the government needed to provide sufficient funding to remedy the discrimination.

Canada (Attorney General) v. First Nations Child and Family Caring Society of Canada, 2021 FC 969

Indigenous Services Canada disagreed with two decisions from the Tribunal. Indigenous Services Canada asked the Federal Court to review these decisions.

In the first decision (2019 CHRT 39), the Tribunal found that the practices resulting in First Nations children being removed from their homes, families, and communities led to trauma and harm to the highest degree, causing pain and suffering. The Tribunal ordered Canada to pay each affected First Nations child and caregiving parent or grandparent $20,000 for their pain and suffering and $20,000 for Indigenous Services Canada's wilful or reckless conduct. In total, this is $40,000 payable to each victim.

The Federal Court concluded that this decision is reasonable. The Tribunal has broad discretion to fashion appropriate remedies to fit the circumstances. To receive an award, the victims did not need to testify to establish individual harm. The Tribunal had extensive evidence of Indigenous Services Canada's discrimination; the harm experienced by First Nations children and their families; and Indigenous Services Canada's knowledge of that harm. Further, the Tribunal did not turn the proceedings into a class action. From the outset, First Nations children and families were the subject matter of the complaint and Indigenous Services Canada always knew that the Complainants were seeking compensation for the victims.

In the second decision (2020 CHRT 20), the Tribunal provided guidance to the parties to identify which children were within the scope of Jordan's Principle. In particular, the parties disagreed on who should be recognized as a First Nations child. The Tribunal explicitly recognized that it did not have the power to determine First Nations identity. However, it could provide guidance on which individuals had to be included within the scope of Jordan's Principle to remedy the discrimination identified in this case.

The parties had agreed three categories of children were eligible:

- A child with *Indian Act* status;
- A child who is eligible for *Indian Act* status; and
- A child covered by a First Nations self-government agreement or arrangement.

The Tribunal confirmed this agreement.

The Tribunal found two additional groups of children were eligible:

- First Nations children, without *Indian Act* status, who are recognized as citizens or members of their respective First Nations; and
- First Nations children who have a parent/guardian with *Indian Act* status, or a parent/guardian who is eligible for *Indian Act* status.

The Federal Court also agreed with the Tribunal's reasoning in this decision. The Tribunal appropriately considered the purpose of human rights remedies to ensure that the discrimination in this case would be fixed. The Tribunal addressed the legal interpretation of First Nations identity related to the *Indian Act* and the more holistic approach to First Nations identity seen through the Indigenous right to self-determination.

SECTION 8

DEPARTMENT OF JUSTICE ACCESS TO JUSTICE INDEX AND LOOKING AHEAD

We want to improve the service we offer to Canadians. In December 2021, we completed the Department of Justice Access to Justice (A2J) Index. The results of this A2J Index provided us with valuable information and identified areas of particular importance to focus on.

In the coming years, our work will focus on transparency and accountability, engagement with stakeholders and users of our system, and an increased use of plain language in our communications and decisions. The Tribunal will also continue using mediation and proportionate case management to advance and complete cases as quickly as possible. Quality adjudication will remain an ongoing focus for the Tribunal.

While we have started to make changes, they will not all be done overnight. This index will help us establish our priorities and identify initiatives that we will undertake in the coming years. We will reach out to the users of our system and welcome their input. Our parties know best what works and does not work. We want to make sure that we make changes based on what our users need and not to make changes that just work for us.

Our commitment is to listen, learn, adjust, test, realign and report.

"Quality adjudication will remain an ongoing focus for the Tribunal."

SECTION 9

CONTACT INFORMATION

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