

FORM 301

Notice of Application

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F I L E D	FEDERAL COURT COUR FÉDÉRALE Sep 28, 2022 Scinthura Seeraladevan	D É P O S É
Toronto, ONT	- 1 -	

Filed: 2022-09-28

FEDERAL COURT

BETWEEN:

Christopher Priest

APPLICANT

and

The Attorney General of Canada (CHRC)

RESPONDENTS

Notice of Application

TO THE RESPONDENT:

A PROCEEDING HAS BEEN COMMENCED by the applicant. The relief claimed by the applicant appears on the following page.

THIS APPLICATION will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court orders otherwise, the place of hearing will be as requested by the applicant. The applicant requests that this application be heard at Toronto.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or a solicitor acting for you must file a notice of appearance in Form 305 prescribed by the [Federal Courts Rules](#) and serve it on the applicant's solicitor or, if the applicant is self-represented, on the applicant, WITHIN 10 DAYS after being served with this notice of application.

Copies of the [Federal Courts Rules](#), information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO OPPOSE THIS APPLICATION, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

September 28, 2022

Issued by: *(Registry Officer)*

Address of local office:

TO:

*The Attorney General of Canada
Department of Justice Canada
120 Adelaide Street West
Suite #400
Toronto, Ontario M5H 1T1*

Per rule 133 no service is required
AGC_PGC_TORONTO.LEAD-DCECJ@JUSTICE.GC.CA

Application

This is an application for judicial review in respect of

The Canadian Human Rights Commission

On 2022-08-30 at 11:36 Mr. Priest received a Decision Letter from Complaint Services providing a Record of Decision by Dianna Scarth, Commissioner in which it is stated that she agrees with the report for decision to;

Sever the allegations that took place prior to 2015 and

Not to deal with the remaining allegations because another procedure has addressed the allegations.

The applicant makes application for:

Orders setting aside the decision to sever the events prior to 2015 and findings that;

- a) the CHRC is not correct in assuming that it has authority to sever events under section 41(1)(e) of the Act.
- b) the CHRC breached procedural fairness in allowing Intake Services personnel to make section 41(1)(e) decisions based solely on the *prima facie* complaint form and especially prior to gathering the information necessary to make a section 41(1)(e) decision.
- c) the CHRC breached its own internal procedures.
- d) the commissioner did not respond to the “Not plain and obvious” discussion.
- e) the commissioner did not respond to the “Respondent’s position” discussion.
- f) the commissioner did not respond to the “Missing facts” discussions or others.
- g) the decision was unreasonable and not justified.

Orders setting aside the determination not to deal with the remaining allegations and

- h) to require the commission to forward the complaint to the Tribunal.
- i) to acknowledge that the grievance process is not a valid forum. It itself states, it has no jurisdiction.
- j) confirm that the decision was unreasonable.

Orders requiring the CHRC to modify its procedures so that when dealing with issues of systemic discrimination, especially those that extend over long periods of time that

- k) the commission allow suitable submissions. It is notable that an applicant is allowed 10 pages in order to reply to a 20 page Report for Decision.
- l) the commission list all the documents considered – saying it did so without providing a list provides no validation.

The grounds for the application are:

1. The application form is described as giving the *prima facie* case for discrimination. It is not intended for making a section 41(1)(e) determination. The commission in allowing a section 41(1)(e) determination to be made on the application breached procedural fairness as did not correct that error.
2. The CHRC breached procedural fairness in allowing Intake Services personnel to make section 41(1)(e) decisions when they lack training and expertise. CHRC should have required the gathering of section 41(1)(e) submissions prior to making a decision and to have that decision made at the right level.
3. The CHRC has no authority to sever events under section 41(1)(e) of the Act. It only has authority to consider whether the last event occurred within a year.
4. The commissioner ignored the facts and simply accepted the Report for Decision without considering the arguments given in submission to that report. The subsequent submission goes beyond the facts used by the Report for Decision and need to be considered. Vavilov demands full consideration (or a reasonable subset) of the arguments be demonstrated in the final decision.
5. The decision is not justified in relation to the relevant factual and legal constraints that bear on the decision.
6. The CHRC decision that the grievance process has addressed my concerns has no basis in fact. The body itself says it is without jurisdiction and this fact is recorded in Appendix C of the Report for Decision at the end of para three.
7. Comments made by a body without jurisdiction and without expertise are of no value and should not be considered by the Commission as determinative.
8. The grievance process breached the "He who decides must hear" rule and sub-sub-sub-sub delegated the hearing and decision to a low level Human Resources staffer. Rubber stamping by the Assistant Commissioner is not a legitimate hearing. The Assistant Commissioner never spoke to me nor heard a word of my complaint. Federal Court has determined that Human Resources within CRA lack expertise in interpreting and applying the Human Rights Act.
9. The grievance process is normally appealable to the FPSLREB. The final grievance is not the end of the process. Human Rights issues for non-staffing issues go that route. It is incorrect for the Human Rights Commission to close off appeal rights in favour of a body not recognized as having the independence or final authority by the broader public service.
10. The Tribunal based its decision on an erroneous finding of fact that it made without regard to the material before it
11. The Human Rights **Tribunal** is the only body that can determine the appropriate remedy for the discrimination that I have faced.

Material

This application will be supported by the following material: *(List the supporting affidavits, including documentary exhibits, and the portions of transcripts to be used.)*

Note: the 8 digits in the front of the file name is the date.

This material was before the commission in making its decision.

20180720 complaint submitted.pdf

20180815 email from CHRC.pdf

20180823 Memo To File CJP re CHRC hold.pdf

20201027 Final Grievance Reply Priest.pdf

20201125a C Priest complaint form.pdf

20201125b C Priest CHRC submission.pdf

20201125c C Priest CHRC replies from grievance.pdf

20201125d C Priest CHRC Chronology.pdf

20201222a CHRC OTTAWAITI7-#2864464-v1-Letter_-_notification_to_sectio_40-41_to_C.PDF

20201222b CHRC Complaint Form - 20180899.pdf

20201222c CHRC Information Sheet - 41(1)(d) Vexatious.pdf

20201222d CHRC Information Sheet - 41(1)(e) Out of Time.pdf

20210106 CJP Out of Time - 2864464.pdf

20210106 CJP Vexatious - 2864464.pdf

20210129 email from CHRC mgr.pdf

20210225 CJP Out of Time - 2864464.pdf

20210225 email to CHRC.pdf

20211121 email to CHRC.pdf

20211124 email request change to dates.pdf

20211201a email from CJRC reply 1 to request to change dates.pdf

20211201b email from CJRC reply 2 to request to change dates.pdf

20220225 email from HRO accepting addendum.pdf

20220304a email Report for Decision cover email.pdf

20220304b Report for Decision 20180899 REPORT 40-41.pdf

20220304c Report Instruction Sheet - Prepare a Submission.pdf

20220317 Claimant's Submission.pdf

20220323 1717a CRA Additional Submissions and cover letter.pdf

20220323 1717b CRA Submission.pdf

20220324 0942 email Deborah Yu now before commissioners.pdf

20220404 email to CHRC.pdf

20220830a email - CHRC Decision Letter.PDF

20220830b CHRC Decision Letter.PDF

20220830c email to CHRC requesting clarification.pdf

20220831a CHRC clarification.pdf

20220926 Affidavit of Christopher Priest

The Canadian Human Rights Act

The CRA Act

PIPSC union contracts re grievance process

Priest vs AGC T-234-21 Applicant's record

The Applicant will Rely on

1. Vavilov, 2019 SCC 65 <https://canlii.ca/t/h4j13>
2. Patterson 2011 FC 1398, at para 30, <https://canlii.ca/t/fp9kk#par30>
3. Fraser v. Canada (Attorney General), 2020 SCC 28 <https://canlii.ca/t/jb370#par20>

The applicant requests *CHRC* to send a certified copy of the following material that is not in the possession of the applicant but is in the possession of the *CHRC* to the applicant and to the Registry:

Record of all emails and communication within the CHRC with regards to this case.

Specifically requested are the “respondent’s positions” (CRA) on the application and section 40/41 submissions of the applicant. These documents are mentioned in the email of 2021-01-29 from the CHRC. These have never been provided to the applicant.

Dated: 2022-09-27

A handwritten signature in black ink that reads "Priest". The signature is written in a cursive, flowing style.

Christopher John Priest
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