

Registry No. T-926-20

FEDERAL COURT

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	Aug 14 2020	
Wayne Sawtell		
Ottawa, ONT		1

BETWEEN:

LOUISE BELISLE

Applicant(s)

- and -

ATTORNEY GENERAL OF CANADA

- and -

CANADIAN HUMAN RIGHTS COMMISSION
(Hereinafter referred to CHRC)

Respondent(s)

NOTICE OF APPLICATION FOR JUDICIAL REVIEW

Louise Belisle
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Gatineau, Quebec, J9J 2R6
Tel.: 613-851-0793

Applicant

Registry No.

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TO THE RESPONDENT:

A PROCEEDING HAS BEEN COMMENCED by the applicant in accordance with section 18.1 of the Federal Courts Act following Federal Court Rules 300-303. 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 *Federal Court*.

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.

DATE: August 17, 2020 _____

Original signed by
Wayne Sawtell
Issued by: _____
Local Registrar

Address of **Federal Court**
Local office: Thomas D'Arcy McGee Building
90 Sparks Street, 5th Floor
Ottawa, ON K1A 0H9

TO: Attorney General of Canada
Department of Justice
234 Wellington Street, 2nd Floor
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mcu@justice.gc.ca
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Canadian Human Rights Commission
344 Slater Street, 8th Floor
Ottawa, ON K1A 1E1
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Respondent(s)

Application

This is an application for judicial review in respect of the Canadian Human Rights Commission's ("Tribunal") decision in file no. 20170832 dated March 25, 2020 and cited subparagraph 44(3)(b)(i) CHRA to dismiss complaint.

THE APPLICANT MAKES APPLICATION FOR:

1. An order accepting the present demand for judicial review, with costs;
2. A writ of certiorari quashing or setting aside the decision of the CHRC dated March 25, 2020 and referring the matter to the Tribunal for determination in accordance with the Human Rights Act and the direction of this Court;
3. That the Commission flawed in its procedural unfairness and unreasonableness in its decision; and
4. Such further and other relief as this Honourable Court may deem appropriate and just in the circumstances.

THE GROUNDS FOR APPLICATION ARE:

CHRC decision was on March 25, 2020

1. Letter written by Commission dated April 29, 2020 dismissing the complaint as unfounded pursuant to subparagraph 44(3)(b)(i) for the Canadian Human Rights Act, signed by Andrée-Anne Mallette and investigated by Ms. Pitt.
2. The Applicant received a vague and short decision delivered on May 4, 2020 and was not informed of the decision prior to written decision and has never received the report the full report of the decision. Both the complainant and the respondent received the dismissal at the same time.
3. The CHRC decision stated no further inquiry warranted claiming no evidence of discrimination including harassment shows a failure to investigate obvious crucial/critical evidence that was submitted and discussed and there was an unreasonable omission, clear deficiencies where the Applicant will not be able to seek compensation by making further submissions thereby resulting in a lack of procedural fairness. Evidence provided was lost, ignored or not considered due to changing staff on the file and additional evidence to be submitted was denied.
4. The CHRC failed to act fairly in several circumstances by making a decision based on evidence that was not disclosed to the applicant while the CHRC appeared to favour Crown-Indigenous Relations and Northern Affairs Canada on its changing, false and misleading information.
5. There was a lack of objective standards used for reasonableness as the complaint can be provided on a balance of probabilities on the facts and evidence that there was discrimination and harassment.

6. The CHRC failed to act fairly when it acted subjectively, and approached the case with predetermined judgements and a closed mind (could be perceived as biased) regarding evidence submitted breaching their duty of procedural fairness according to the Human Rights; therefore their decision is unsupported by all the evidence that was before the decision-maker the CHRC.
7. Applicant felt inadequately accommodated as per the Human Rights Act dismissing their responsibility under the Act, after advising the Commission of her need for accommodations.
8. CHRC erred in understanding the law on a particular subject, and erred in the application of the law to the facts of the case and their own mandate including to ensure all accommodations of the Applicant.
9. The Applicant felt that she had been adversely affected and at a disadvantage leaving her vulnerable to her disability once more. She did provide the appropriate allegations of discrimination and harassment along with the evidence, however, the department's policy regarding its intake information in itself is discriminatory to those with cognitive disabilities.. The process & system is faulty and does not favour the victim as victims have a burden to prove but are limited to what they can write in combination with evidence limits the ability to provide all the facts essential and relevant to make an informed decision. The Applicant is made to funnel through a process that is cumbersome and delayed while full of legalities and processes that for a person with a cognitive disability is stressful and difficult. The Respondent has access to departmental counsel assisting/or responding on their behalf. Where the Applicant had no disposable income to obtain legal advice to ensure the complaint was properly articulated there was no indication by investigator that there was anything more needed.
10. The file had been transferred from one investigator to another and several staff members where necessary time to review the documents, evidence and complaint had not be given properly analyzing prior the negative decision. There appeared to be a negative judgement about the Application and a negative decision already formulated prior to the decision
11. The CHRC is over burdened with complaints and behind creating a delay in the Applicants file originally filed in 2016 and the thoroughness that the Federal Court deemed to be "qualified by the need for a workable and administratively effective system for reviewing complaints" has proven the administrative deficiencies of the Applicants file.
12. The CHRC allowed for the respondents to act and respond together being each other's witness, refusing to interview any witnesses the Applicant provided out of the department or within the same section experiencing the same abuse, harassment and systemic discrimination during the same time and after the Applicant departed.

13. CHRC made a decision that adversely affected the Applicant and used perceptions and judgements of the Applicant to make their decision rather than the human reality of the discrimination and following their own examples of discrimination and the Act itself of which their mandate is base on.
14. CHRC misunderstood and misconstrued facts leading to their decision;
15. **THAT** the CHRC based their decision on erroneous findings of fact and omissions made in a perverse or capricious manner and without regard to the material and evidence brought before the CHRC.
16. **THAT** there was a denial of procedural fairness as per 36(3)(b) of the Canadian Human Rights Act.
17. **SUCH** that the behavior and actions of the investigator appeared to be subjective and closed minded favouring the department.
18. **SUCH** further and additional grounds that will be established and provided as the Applicant/counsel may advise and this Honourable Court may permit.

STATUTORY PREVISIONS AND RULES TO BE RELIED ON BUT NOT LIMITED TO:

1. *Human Rights Code*, R.S.O. 1990, c.H.19;
2. *Canadian Human Rights Act*, 1985 R.S.C. c...H-6 at sections 5 – 14.1;
3. *Judicial Review Procedures Act*, R.S.O. 1990, c.J.1;
4. *Statutory Powers and Procedure Act*, R.S.O. 1990, c.S.22;
5. *Federal Court Act*, R.S.C. 1985, c.F-7 & ss. 18(1) and 18.1(3);
6. *SOR/2004-283*, ss. 35, 38;
7. *SOR/2013-18*, s. 16;
8. **SUCH** further and additional stator previsions and rules that will be established and provided as the Applicant/counsel may advise and this Honourable Court may permit.

THE RELIEF SOUGHT BY THE APPLICANT:

1. To overturn and void the CHRC decision – Certiorari;
2. To return the matter for full and thorough review of entire file by the Tribunal directly;
3. CHRC to send Applicants full file including all evidence submitted by Applicant;
4. Allow the Applicant to review complaint with legal representation and provide further evidence if required;
5. Monetary compensation;
6. Such Further and other relief as the Applicant may request in their application and this Court may allow.

This application will be supported by the following material including statutory previsions/rules above:

1. Certified Commission Records
2. *All exhibits, documents & evidence provided to CHRC including what they have but didn't use. Such as*

legislations, policies, & Acts - Emails, texts, dated prior to March 2016 to present.

3. INAC Plans and Priorities - https://www.aadnc-aandc.gc.ca/DAM/DAM-INTER-HQ-AI/STAGING/texte-text/2017-18DP-en_1489003636000_eng.pdf
4. Canadian Human Rights Act- <https://www.pushormitchell.com/2011/04/canadian-human-rights-tribunal-orders-inac-cease-discriminatory-practices/>
5. https://www.rcaanc-cirnac.gc.ca/DAM/DAM-CIRNAC-RCAANC/DAM-AEV/STAGING/texte-text/ve_1100100011370_eng.pdf
6. <https://www.aadnc-aandc.gc.ca/eng/1453826795178/1453826845637>
7. <https://www.aadnc-aandc.gc.ca/eng/1448561202027/1448561236166>
8. <https://www.canada.ca/en/treasury-board-secretariat/services/professional-development/key-leadership-competency-profile/examples-effective-ineffective-behaviours.html>
9. <https://cmhakelowna.com/13-factors/>
10. <https://laws-lois.justice.gc.ca/eng/acts/L-2/>
11. <https://laws-lois.justice.gc.ca/eng/acts/h-6/fulltext.html>
12. <https://www.canada.ca/en/treasury-board-secretariat/services/innovation/public-service-employee-survey/2017-public-service-employee-annual-survey-focus-series/focus-discrimination.html>
13. <https://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=26041>
14. <https://www.canada.ca/en/canadian-heritage/services/rights-women.html>
15. http://trc.ca/assets/pdf/Calls_to_Action_English2.pdf
16. <https://www.canada.ca/en/government/publicservice/wellness-inclusion-diversity-public-service/diversity-inclusion-public-service/working-government-canada-duty-accommodate-right-non-discrimination.html>
17. <https://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=12543>
18. <https://www.canada.ca/en/government/publicservice/wellness-inclusion-diversity-public-service/health-wellness-public-servants/disability-management/fundamentals-duty-accommodate-roles-responsibilities.html>
19. <https://www.chrc-ccdp.gc.ca/eng/content/what-discrimination>
20. <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/236/index.do>
21. <https://laws-lois.justice.gc.ca/eng/const/page-15.html>
22. <https://laws-lois.justice.gc.ca/eng/acts/p-33.3/>
23. <https://laws-lois.justice.gc.ca/eng/acts/E-5.401/>
24. <https://www.aadnc-aandc.gc.ca/eng/1100100028537/1100100028539>
25. Such further and other materials as Applicant /counsel may advise and this Honourable Court may permit.

The Applicant requests that the Canadian Human Rights Commission send a certified copy of all the

records it has in its possession on which its decision was based including any documents and materials that were omitted in the decision process to the applicant and to the Registry within 20 days of this application, as per rule 317 of the Federal Court rules.

The Applicant requests this matter be heard in Ottawa, Ontario.

DATED AT GATINEAU THIS 14 DAY OF AUGUST, 2020.

Louise Belisle

Louise Belisle

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Applicant

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