

***Nunavut
Human Rights
Tribunal***

***Annual Report
As of March 31st, 2007***



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Nunavut Human Rights Tribunal

PO Box 15

Coral Harbour, NU X0C 0C0

Letter of Transmittal

August 31st, 2007

The Honourable Paul Okalik
Minister of Justice
Legislative Assembly
PO Box 1200
Iqaluit, NU X0C 0C0

Sir

It is with great pleasure that I present you, the Minister responsible for the Administration of the *Nunavut Human Rights Act*, the second annual report of the Nunavut Human Rights Tribunal for the fiscal year ending March 31st, 2007.

Respectfully submitted by



Sue Cooper
Acting Chair

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Message from the Chair

The Nunavut Human Rights Act came into force on November 4th 2004. The Act established the Tribunal as a direct access human rights model. What follows is our second report for the period commencing April 1st, 2006 and concluding on March 31st, 2007.

The highlight of this reporting period was the Grand Opening of our Office in Coral Harbour on June 1st, 2006. The Premier welcomed the many people of Coral Harbour who were in attendance. Member Aime Ahegona was recongized by the Premier for his contribution in establishing the Tribunal and for his many years of dedication to community leadership.

In July, the Executive Director Internship was filled. Ms. Imelda Angootealuk was selected for the Internship. She brings several years of experience from municipal and local housing management to the position. The internship is three years in duration.

Ms. Sally Kusagak was appointed to the Tribunal in August. Her experience as a past member of Nunavut Boards will do her well in meeting the challenges as a member for the Tribunal.

In November we issued information packages and a call for logos. Packages were sent to all Nunavut schools, community learning centres, Northwest Co. Stores, Co-op Stores, and Hamlet offices. The Chair and Executive Director were interviewed on CBC radio. The website launch was deffered to the 2006-07 fiscal years due to fiscal constraints during the reporting period.

Sadly, we were only at full strength for three short months. Chair Ms. Gela Oolayou-Pitsiulak tendered her resignation in December 2006. Our elder, Mr. Amie Ahegona, lost his battle with cancer and passed away in June of this year. His optimism and candid approach to life was a great comfort to the Tribunal.

It was a challenge for the Members to balance the demands of our full-time professional commitments and that of Tribunal. Files were shared among three members during the course of the year. Understandably we were unable to meet our prime objective to decrease the amount of time to render decisions on current and incoming files. Hopefully, during our next reporting period we can announce that we have decreased the decision waiting time.

No hearings were convened during the reporting period as we were able to settle the matters before Tribunal through mediation. To date we have had a one hundred percent success rate via mediation.

To reiterate the thoughts of our former chair, a strategy needs to be considered by the people and institutions of Nunavut to ensure that everyone in Nunavut is aware of the their rights and responsibilities covered under the Nunavut Human Rights Act. Public human rights education and advocacy must become a priority.

The following goals have been set for the third reporting period beginning April 1st, 2007:

- To decrease the amount of time taken to render a decision as per Part 4 of *the Act*;
- To again work cooperatively with Nunavut Legal Services Board in providing assistance to individuals who require legal advise on human rights issues;
- To launch our website; and lastly
- To strengthen our committment to professional development in human rights law, mediation decision writing and conducting hearings.

To conclude I wish to dedicate this report to the memory of our Elder Member, Mr. Aime Ahegona, of Kugluluk.

On behalf of the Tribunal Members and Staff

Sue Cooper
Acting Chair



Fig 1: Grand Opening Gathering June 2006



Fig 2: Premier Okalik opened the Tribunal Office in Coral Harbour

Dedication

This Report is dedicated to the memory of Aime Ahegona, Member in good standing since the inception of the Nunavut Human Rights Tribunal who passed away in June of this year.



Aime Ahegona resided in Kugluktuk operating Aime's Arctic Tours. He worked in a number of companies that include the DEW line worksites, the Hudson Bay Company, and the Echo Bay Mine. Aime was committed to Community Justice Services and participated with the Culture, Language, Elders and Youth department, Task Force for the Elders Group.

What is the Nunavut Human Rights Act?

It is an act that was passed into law by the Legislative Assembly to provide all people of Nunavut with the guarantee that they shall have an equal opportunity to enjoy a full and productive life. It places responsibility on Government, all public agencies, boards and commissions and persons in Nunavut to fulfill this guarantee. Failure to provide equal opportunity is subject to the provisions set forth in the Act.

Application of the Act is to be done within the IQ framework. *The Act* does not add or take away protections provided for in the Nunavut Land Claims Agreement.

The Act makes it against the law for any person(s), agency, business or government to unlawfully discriminate against any person in Nunavut.

What does it mean to Discriminate?

To unlawfully discriminate is to deny benefits or impose burdens, obligations or disadvantages on persons or groups of people who have any one of the characteristics mentioned in s. 7(1) of the Act. The Act does not allow discrimination in the provision of services, good or facilities or in the hiring of people or in the employment.

Here are two examples:

- A young woman is not hired for the job because she is pregnant (discrimination on the basis of sex and gender)
- A hotel refuses to provide a room to a single mother with two children. (discrimination on the basis of family status)

The Act does not allow discrimination in certain areas such as:

- While people are looking for work or at work;
- Obtaining or maintaining a membership in an employee's organization;
- accessing goods, services, facilities or contracts that are available to the general public;
- renting or attempting to rent any residential or commercial building; and
- Lastly, publishing or displaying information or written material.

There are many grounds or personal characteristics that are prohibited under the Act. The seventeen grounds are grouped as follows:

- Race, colour, ancestry, ethnic origin, citizenship and place of origin are five grounds closely related to the person's cultural identity.
- Religion and creed
- Age

Disability

Sex, and Sexual orientation

Marital and family status

Pregnancy and includes adoption of a child by a man or woman

Lawful source of income; and

A conviction for which a pardon has been granted.

It is unlawful to harass anyone based on any one of the prohibited grounds. Harassment is "unwelcome" conduct.

The Act established a Tribunal to administer and make decisions under *The Act*. Five individuals are appointed for a four year term. As of March 31st, 2007 Members Louise Hauli and Aime Ahegona who were appointed upon establishment for a four year term remained. Ms. Sue Cooper was reappointed in November 2006 for a four year term and acted as Chair upon the resignation of Ms. Gela Oolayou-Pitsiulak. Ms. Sally Kusugak was appointed in July of 2006

Susan Cooper is a practicing lawyer with Chandler & Cooper in Iqaluit. She graduated from the University of Alberta Law School in 1987. She was admitted to the Law Society of Nunavut in 1999 and currently maintains an active membership with the Law Society of Nunavut and is the Director of the Canadian Civil Liberties Association. Susan practices mainly in the areas of criminal law, civil litigation and parliamentary law.



to a vacancy for a 4 year term. One vacancy still exists.

What is a Tribunal?

The word "*Tribunal*" is borrowed from a Latin word, *tribunus*, meaning "magistrate" or "head of a tribe". Tribunals in Canada are *persons or groups of persons* created by legislation to administer laws that are within the authority of the legislative body of a "Government".

A Tribunal is established according to the legislation and obtains its authority and "power to act" from that legislation. The Nunavut Human Rights Tribunal's authority and power to act is set forth in the Nunavut Human Rights Act.

Tribunals are different from "Boards" and "Agencies" established by legislation because of their "adjudicative" role. To adjudicate is to "judge" or "decide". Having an adjudicative role also means that decisions must be made in a certain way, i.e. by following certain legal rules and principles including the Principles of Fundamental Justice.

Because human rights are part of the "supreme law of

Canada”, legislation that protects and enforces human rights in provinces and territories is referred to as “quasi-constitutional” law. “Quasi” simply means “as if it were” constitutional law.

The effect of human rights law being “quasi-constitutional” is that it is treated as extremely important law, law that is remedial in nature (law that is intended to correct wrongs rather than punish) and law that will be interpreted liberally so as to achieve its purposes, e.g. the purpose(s) set out in the Preamble to the Human Rights Act.

The Nunavut Human Rights Tribunal is a direct access model unlike its counterparts in other territories and provinces which have commissions. The only other direct access Tribunal is in BC. The direct access model means that the Tribunal makes all the decisions on matters before it. Staff are to provide information to the public on procedures and assist Applicants in completing Notifications. “Notifications” are documents completed by Applicants which states proceedings before the Tribunal.

The Tribunal is the decision maker at all stages of proceedings defined under *The Act*. Tribunal members are to be independent of their appointers (the Government of Nunavut) and impartial (without favor to anyone) in all proceedings before the Tribunal.

What do I do if I think my human rights have been violated?

An individual should contact the NHRT Office, located in Coral Harbour to request information and an application.

If you can answer **YES** to all of the following questions, you should consider filing a complaint:

- Did the events occur within the last 2 years? (exceptions can be made)
- Did they occur within Nunavut?
- Did they occur while seeking a service other than from a bank, airline, RCMP, a Federal government department such as Human Resources Canada, Dept of Indian & Northern Affairs?
- Was the denial of a benefit or creation of a burden, obligation or disadvantage related to one or more than one of the 17 grounds listed above?

An individual should consider getting legal advice and representation from their lawyer or the Nunavut Legal Services Board.

How do I file an Alleged Act of Discrimination?

A Notification form will need to be completed. Forms are available upon request from the Tribunal Office. A Notification is a form or application that must be completed by the person-

the **Applicant** who says her or he has been discriminated against. The form can be completed orally or in writing. It can be mailed, faxed, or email to the office in any of 4 official languages to the attention of the Tribunal Executive Director. Some questions found in a Notification are

- Who did it?
- What happened?
- Is it still occurring?
- Who else knows about it or saw it?
- How were you affected?
- What would make it right?

Louise Haulli resides in Igloolik, as a Community Wellness Coordinator with the Hamlet of Igloolik. As an active community member, she has helped organized workshops for community wellness programs, traditional knowledge workshop concerning parenting and family communication skills, and would like to strengthen Inuit knowledge in traditional customary laws. Louise volunteers her time by visiting elders at their homes doing household chores.



The Notification can also be filed orally. In addition the Notification can be filed on behalf of an Applicant with her or his informed consent. Any documentation that will support the application may be attached to the Notification. Again: whenever possible, we suggest that you seek the services of lawyer. You may also have other persons in your family or community to assist you in communicating with our office.

The individual or organization that is named in the Notification allegedly committing the act of discrimination is known as the **Respondent**. All people and/or organization listed in both the Notification and Reply are known as the **Parties**.

What is a “Human Rights Officer”?

The first person that you speak to in NHRT Office is likely to be a Human Rights Officer. Human Rights Officers are there to help you understand the practices and procedures set out in the Act, how to file Notifications and to make referrals to other agencies if necessary. They will also look after any special needs that Applicant’s may have, e.g. interpreter services. Anything that is said to a Human Rights Officer or the Director is confidential.

What happens after I file my Notification?

The Tribunal Executive Director will review the Notification to ensure that all or enough information has been provided such as

- contact information for the applicant and respondent has been provided.
- the document is signed
- all details of the incident are provided from beginning to end; and
- when necessary or requested have documentation translated into the language of the parties' choice

A copy of the Notification is sent to the person(s) or agency listed as the Respondent in the Notification. The respondent has the right to reply to a Notification. The respondent should complete a Reply to Notification form and return it to the Tribunal Office. The Respondent has 30 days to reply. Upon receiving the Reply a copy is forwarded to Applicant.

The Notification and Reply are reviewed by the Tribunal- **Part 4 Review**- to decide whether to continue with proceedings or dismiss the Notification using the criteria set out in section 23 and 24 of the *Act*:

- the events occurred within the last 2 years;
- a notification filed on behalf of some other person(s);
- whether the complaint should be dealt with under other legislation;
- whether the complaint is very minor, not understandable, silly or made for improper reasons;
- whether complaint is under one of the prohibited grounds;
- whether there is enough evidence of discrimination and no irrefutable defense; and
- whether the applicant was offered a reasonable settlement.

The Tribunal will provide a written decision of the Part 4 Review to both the Applicant and Respondent. The decision will either be to continue with proceedings or to dismiss the Notification.

The Tribunal may then try to settle the Notification using Tribunal members, independent mediators, community elders or other organizations. The Applicant and Respondent are encouraged to enter into mediation to settle the matter. If the matter is settled and a settlement agreement is made, the Notification is finished. However, if either party fails to keep the promises listed in the settlement agreement, it may be filed with the Nunavut Court of Justice and enforced through that Court. If no settlement is reached, the Tribunal will hold a formal, public hearing at which both the Applicant and Respondent may give evidence under oath and call witnesses.

A Tribunal member who has had no contact with the Applicant or Respondent during any of the proceeding process will be assigned to hear the Notification. The hearing process involves the hearing of evidence by affidavit and in-person (under oath) through witness, much like what is done in a court of law. The parties may have legal counsel.

After hearing evidence and the arguments of the Applicant and Respondent, the Tribunal will decide whether the Applicant has

been discriminated against, if so, what should be done to correct the situation.

A written decision is made documenting the evidence that was heard and how the law was applied. A final decision may include an Order for a party to compensate the other party, to stop the prohibited conduct, to undertake a system wide program, to apologize or take any other corrective action the Tribunal feels is just. Orders of the Tribunal are enforceable in the Nunavut Court of Justice.

How many inquiries and notifications has the Tribunal received in this reporting period?

The Tribunal tracks both inquiries and notifications that come to the attention of the Staff. During the reporting period of April 01, 2006 to March 31st, 2007; 17 notifications and 78 enquiries were received. Details of each follow.

Table 1: Notification Status Summary

Stage	06-07	05-06	04-05 ¹	Total
Application	5			5
Request for Reply	9			9
Deferred		2		2
Part 4 Review	2	2		4
Mediation		2	1	3
Inactive	1		2	3
Dismissed		1	2	3
Withdrawn		1	1	2
Settled		2	1	3
Total	17	10	7	34

¹ Represents the first 5 months that the Tribunal was in operation.

Table 1 summarizes the status of all Notifications received since inception on November 4th, 2004. As of March 31, 2007 three files have been deemed inactive because the Applicant has not been in contact with the Tribunal office for more than 3 months. The Tribunal will render decisions to closed these files and take no further action. The primary reason for the lack of communication is that the applicant has moved and did not provide the Office with forwarding coordinates. The Tribunal is considering a change in its Rules of Procedure to deal with absentee Applicants.

The Tribunal has deferred two Notifications so that processes external to the Tribunal can be finalized before the Tribunal renders decisions. Examples of such external processes are Union grievances and arbitration and civil action.

To date the Tribunal has conducted no hearings. Parties have agreed to Mediation negating the need to go to a hearing. The Tribunal has had a 100 percent success rate using Mediation.

The greatest challenge facing the Tribunal in processing Notifications is finding the time to devote to decision writing. In this reporting period Part 4 Decision writing has been the responsibility of three members. One of the three members has been recently assigned. The average time that a Notification has been before the Tribunal is 1 year 8 months as of March 31, 2007; the oldest file being just over 2 years old and the most recent being under 2 weeks.

Once a Part 4 Decision is rendered that next greatest challenge is to schedule Mediation sessions. Often the scheduling spans 3 three time zones. However, despite this feedback that has been obtained from the Parties indicates that the teleconference Mediation sessions have been very productive and satisfying. Using the teleconference mode has not impeded the sessions nor full participation. All parties have stipulated that the pre-Mediation conferences were very beneficial.

Lastly, there was a slight increase in activity which could be attributed to the issuance of our information packages across Nunavut.

Where are the Alleged Acts of Discrimination Occurring?

The Notifications have been filed from across Nunavut. Breakdown by community is not provided to protect identity of both applicants and respondents. No notifications or inquiries have been received from 2 communities. Emphasis will be placed on these communities during the next report period to ensure that information is available at various community offices. Often notifications are filed by individuals once they have left Nunavut or are in the process of moving out of Nunavut.

Table 2: Alleged Act Occurred Where

	06-07		05-06		04-05		Total		Nunavut ²
	#	%	#	%	#	%	#	%	%
Baffin	11	65	7	70	3	43	21	62	53
Kivalliq	5	29	1	10	3	43	9	26	28
Kitikmeot			2	20	1	14	3	9	18
Non-Nunavut	1	6					1	3	
Total	17		10		7		34		

² 2006 Census provided for comparison.

The office has received inquiries from across Canada. The number of inquiries received from Kivalliq may be

exceptionally high as residents of Coral Harbour have direct access to the Office.

Table 3: Where are the Inquiries Coming From?

	06-07		05-06		04-05		Total		Nunavut
	#	%	#	%	#	%	#	%	%
Baffin	33	42	28	42	26	59	87	46	53
Kivalliq	27	35	26	39	8	18	61	32	28
Kitikmeot	10	13	8	12	5	11	23	12	18
Non-Nunavut	3	4	2	3	2	5	7	4	
NOT GIVEN	5	6	2	3	3	7	10	5	
Total	78		66		44		188		

The majority of the inquirers and applicants have noted that they obtained information about the Tribunal from publications posted in their community Hamlet Offices.

What types of discrimination are being filed?

Table 4: Grounds³ Listed in Notifications

	06-07		05-06		04-05**		Total	
	#	%	#	%	#	%	#	%
Total Notifications	17		10		7		34	
Race	11	28	5	22	3	18	19	24
Ethnic	7	18	3	13	2	12	12	15
Disability	6	15	2	9	2	12	10	13
Ancestry	1	3	4	17	1	6	6	8
Place of Origin	3	8	2	9	1	6	6	8
Colour	2	5	2	9	1	6	5	6
Sex	2	5	2	9	1	6	5	6
Creed	1	3	1	4	2	12	4	5
Age	2	5			1	6	3	4
Family Status	2	5	1	4			3	4
Source of income			1	4	1	6	2	3
Citizenship					1	6	1	1
Harassment	1	3					1	1
Pregnancy	1	3					1	1
Religion					1	6	1	1
Pardoned Conviction								
Sexual Orientation								
Total	39		23		17		79	

³ A Notification or Inquiry can list one or more grounds

Sixty-six percent of the grounds recorded for inquiries were either not covered under the legislation or not given. Some examples of grounds not covered are wrongful dismissal,

employer-employee relations issues, conduct of the RCMP, conditions of territorial and federal incarceration institutions, and parental access to children. Disability ranked the highest in Inquiries but race ranked the highest in Notifications.

Table 5: Grounds Listed in Inquiries

	06-07		05-06		04-05*		Total	
	#	%	#	%	#	%	#	%
Total Inquiries	78		66		44		188	
Not Covered	39	42	17	22	8	12	64	27
Not Given	22	24	22	28	4	6	48	20
Disability	3	3	8	10	15	22	26	11
Ethnic	2	2	8	10	10	14	20	8
Harassment	5	5	7	9	5	7	17	7
Sex	6	7	7	9	3	4	16	7
Race	5	5	2	3	6	9	13	5
Ancestry	2	2	1	1	4	6	7	3
Family Status	3	3	1	1	1	1	5	2
Pregnancy	1	1	2	3	1	1	4	2
Religion	1	1			3	4	4	2
Age	1	1	2	3			3	1
Place of Origin	1	1			2	3	3	1
Source of income			1	1	2	3	3	1
Colour					3	4	3	1
Sexual Orientation	1	1					1	0.4
Pardoned Conviction			1	1			1	0.4
Citizenship					1	1	1	0.4
Creed					1	1	1	0.4
Total	92		79		69		240	

The majority of inquiries are received by phone. Very few inquiries have been received by Canada Post and email.

Occurred While

Again the majority of the alleged acts took place while seeking work or at work for both notifications and inquiries.

Table 6: Notification Alleged Acts Occurred While

	06-07		05-06		04-05		Total	
	#	%	#	%	#	%	#	%
Work or Seeking Work	14	82	8	80	6	86	28	82
Membership	1	6	0		0		1	3
Seeking Services & Goods	2	12	2	20	1	14	5	15
Tenancy								
Publications								
Filing								
Total	17		10		7		34	

Table 7: Inquiries Occurred While

	06-07		05-06		04-05		Total	
	#	%	#	%	#	%	#	%
Work or Seeking Work	45	58	36	55	33	75	114	61
Membership			1	2			1	1
Seeking Services & Goods	7	9	7	11	3	7	17	9
Tenancy	0	0	2	3	2	5	4	2
Publications	1	1					1	1
Filing			1	2	1	2	2	1
Not Covered	25	32	19	29	5	11	49	26
Total Inquiries	78		66		44		188	

Other Observations

Hearings are to adhere to the Public Inquiries Act. As the Tribunal has not held a hearing to date; its business has not had any public exposure to date. All matters before the Tribunal are confidential unless a hearing is scheduled. The hearing proceedings are public and the decisions rendered become a public record.

Staff have noted that the lack of face-to-face interaction with parties and the general public has been a challenge. Unless a notification is filed from Coral Harbour; no face-to-face contact will be made with any of the parties while the matter is before the Tribunal. In addition business affairs and administration among Members, legal counsel and staff is completed by teleconference. The Tribunal did not meet face-to-face during this reporting period due to scheduling conflicts and fiscal restraints.

The lack of face-to-face interaction with clients and the Tribunal is added challenge. Great attention has been placed on keeping staff and Members engaged. Consideration will be given to submitting a proposal to Cabinet for funding to conduct bi-annual community visitations in the next reporting period. It is essential the Tribunal increases its “face-to-face” contact with the people of Nunavut. Members and staff are encouraged to participate in conferences and training sessions to prevent this isolationistic attitude from developing.

Regardless of where the Tribunal office could have been located; this issue would still prevail; given the small population of each of the Nunavut communities. Aside from Iqaluit, less than 10% of Nunavut’s population would have direct access to the Tribunal’s services. This aspect begs the question: “Where is the human element in human rights?”

Currently, the mandate of the Tribunal does not include public education nor should it. Public education and outreach is

responsibility of the Nunavut Legal Services Board (s. 49). To date no strategy has been developed to address this issue. Education is the backbone of any human rights code.

Nunavut Legal Services Board currently has a full-time poverty lawyer on staff who deals with legal matters outside criminal and family law. Human rights issues comprises at least twenty-five percent of his work load. The poverty legal counsel has assisted individuals in filing a notification.

Other Activities

Tribunal members and staff participated in the 2006 Canadian Association of Statutory Human Rights Agencies (CASHRA) in New Brunswick. This conference provided staff an opportunity to network with colleagues from across Canada. In addition the Chair, Executive Director and Legal Council attended the 2006 Canadian Association of Administrative Tribunals (CAAT). This conference was particularly useful in that presentations dealt with some very timely development issues.

Sally Kusugak Sally grew up in Arviat as a member of a large family. Her parents, Johnny and Rhoda Karetak still reside there with many of their children and grandchildren. Sally received her high school education at Sir John Franklin in Yellowknife. Sally and her husband Lorne live in Rankin Inlet. They have 3 daughters, Kandace, Nuatii and Terrie. She has been an active member of the Nunavut Legal Services Board, and the Local Divisional Board of Education. Sally enjoys spending her spring and summer at the "cabin" at Dianne river.



Staff have been able to participate in web-training as financial constraints curtailed traveling outside the community to take advantage of much training

Financial Statement

There is presently no Nunavut Human Rights Tribunal account to be audited independent from that of the Department of Justice, Nunavut. The Office of the Auditor General of Canada (OAG) carries out an annual audit of the GN financial administration, which currently includes NHRT transactions, because the GN is holding and issuing funds on behalf of the NHRT. This cannot be interpreted as the OAG having audited specifically the HRT, or having given an opinion on it.

GN provides support functions to the HRT. Such support includes payroll for all HRT employees, as well as accounting, human resources, and information technology for the HRT head office. GN also provides rent, building maintenance, translation services, and telecommunications in some

instances. The cost of these services has not been estimated nor included the financial information.

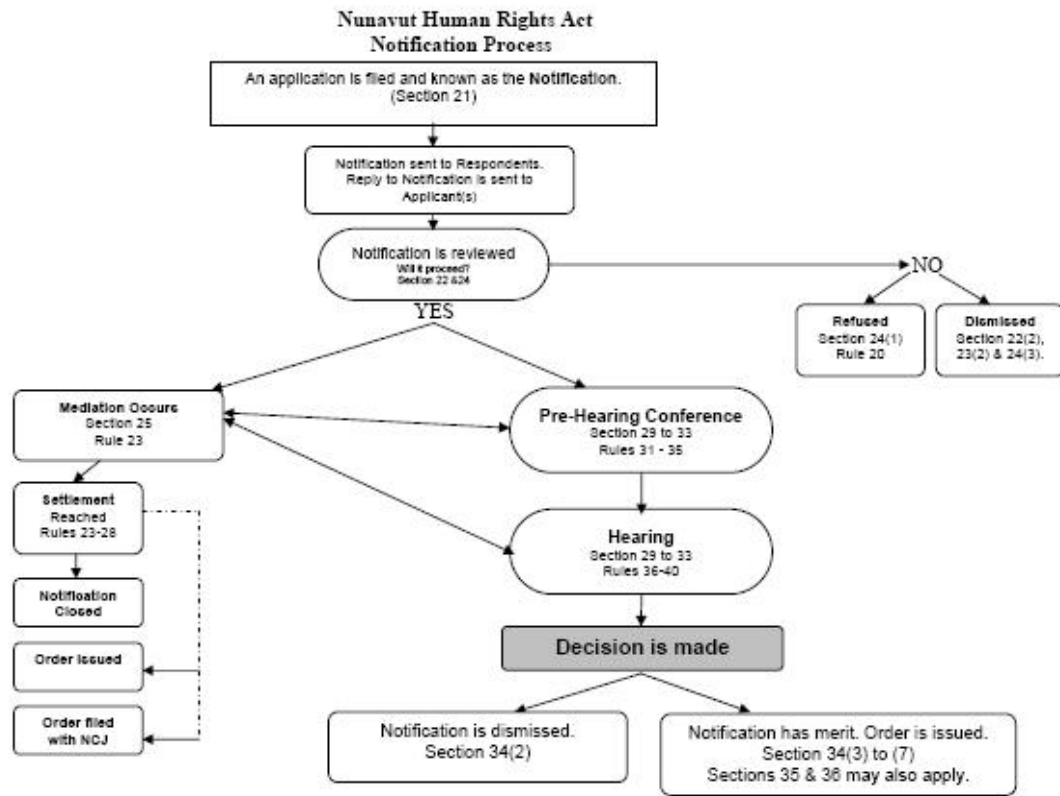
A summary of the HRT operating budget and actual expenses are presented as they appear in the Public Accounts of the GN. Since all banking, accounts payable and receivable functions were handled by the GN, we cannot present a Balance Sheet or Cash Flow Statement specific to the HRT.

Expenditure listing for 2006/07

Description	Main Estimates	Actual as of March 31,	
		2007	2006
Salaries & Benefits	300,000	391,359	267,753
Travel and Transportation	40,000	26,478	49,657
Material and Supplies		10,612	7,258
Purchased Services	29,000	8,713	48,727
Contract Services	203,000	43,188	20,011
Fee & Payments		5,401	72,995
Other Expenses	21,000	19,163	1,499
Computer Hardware & Software		6,421	4,168
Total Expenses	593,000	511,334	472,069

Appendix 1:

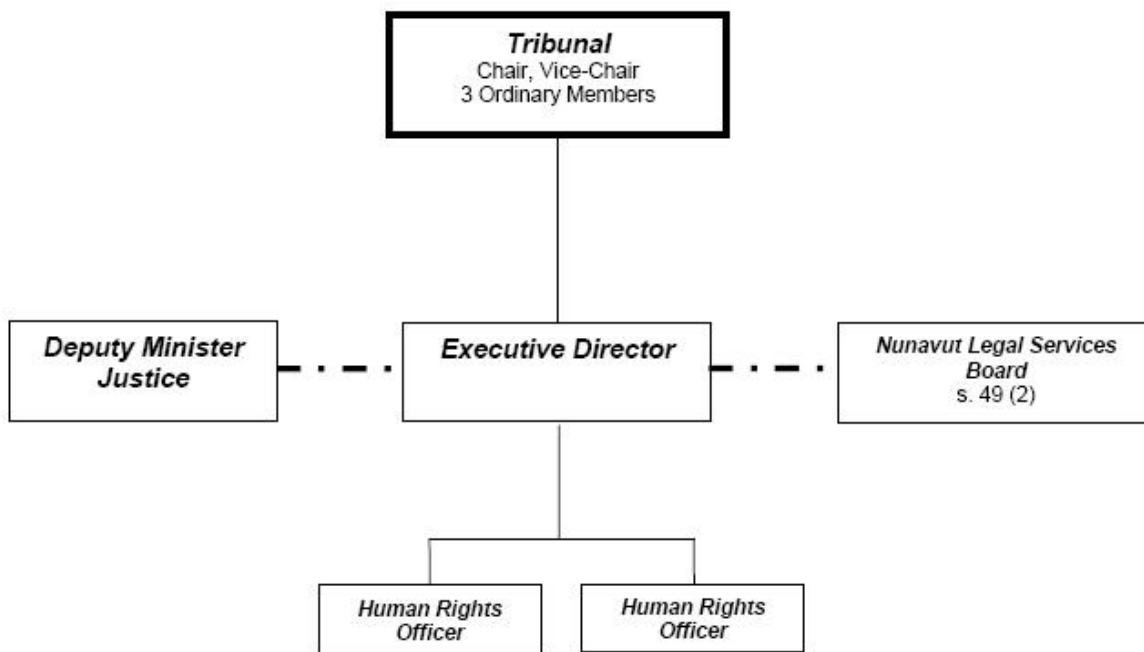
Notification Process



Notes:

- If a settlement is not fulfilled, an order may be issued by the Tribunal (Section 26).
- Any Party to the Notification can appeal to the Nunavut Court of Justice within 30 Days after the service of a Decision or Order of the Tribunal (Section 38).
- Special Remedies under Part 6 can be applied.

**Appendix 2:
Nunavut Human Rights Tribunal Organizational Chart**



Note: - - - denotes indirect reporting relationship

Appendix 3:

RULES OF PROCEDURE OF THE NUNAVUT HUMAN RIGHTS TRIBUNAL

Purpose of the Rules

1. The purpose of these Rules is to assist Applicants and Respondents in obtaining just, fair and timely decisions and orders from the Tribunal.
2. These Rules must be followed during the course of proceedings before the Tribunal unless the Tribunal orders or directs otherwise.
3. If a Party fails to follow these Rules, the Tribunal may make any order or decision it considers appropriate in the circumstances including an order for the payment of costs.
4. Where these Rules are in conflict with the *Nunavut Human Rights Act* (the “Act”) or the *Regulations*, the *Act* or the *Regulations*, as the case may be, will prevail.

Definitions

5. For the purpose of these Rules:
 - (a) “Accommodation” refers to the adapting of facilities, services and procedures to meet the needs of individuals and groups of individuals;
 - (b) “Applicant” means any person (s) who completes a Notification that is received by the Tribunal.
 - (c) “Mediation” includes any problem solving process other than a hearing, including discussions and negotiations, between an Applicant and Respondent that the Tribunal deems acceptable.
 - (d) “Notice” means mailing by registered mail to the last known address of the Party unless personal service is affected by a Party or the Tribunal.
 - (e) “Notification” means a written record made by or on behalf of an Applicant under s. 21 of the *Act*.
 - (f) “Party” means an Applicant or a Respondent or any other person described in s. 28 of the *Act*.
 - (g) “Record” means documents that the Parties to a hearing agree to present to the Tribunal prior to a Hearing.
 - (h) “Reply” or “Reply to a Notification” means a written record in response to a Notification that is received by the Tribunal.
 - (i) “Respondent” means any person(s) named in a Notification who is alleged to have contravened the *Act*.
 - (j) “Tribunal” means one or more members of the Human Rights Tribunal appointed under s. 16 of the

Act.

Notifications and Replies

6. An Applicant may complete a Notification and a Respondent may complete a Reply, personally or with the assistance of another person, including a person employed at the Nunavut Human Rights Offices, in writing or orally.
7. Where an Applicant or Respondent is given assistance under Rule 6, the Notification or Reply must contain the following information:
 - (a) a signed and witnessed consent of the Applicant or Respondent; and,
 - (b) the name, address, telephone number and such other contact information as the Tribunal may require of the person giving assistance.
8. The English language, the French language, Inuktitut language or Innuaqtun language may be used to complete a Notification or a Reply and may be used in any other correspondence or communications with the Tribunal.
9. A Notification must be filed with the Tribunal within two (2) years of the last alleged contravention of the *Act*.
10. The Tribunal will effect service of a Notification on the Respondents personally or by registered mail. If registered mail is used, the effective date of service will be the date of delivery appearing on the Canada Post website.
11. A Reply must be filed with the Tribunal within thirty (30) days of service of a Notification upon a Respondent by the Tribunal.
12. An employee of the Tribunal may require any Party to fully complete or clarify the contents of a Notification or Reply before delivering it to the Tribunal.
13. The Tribunal will acknowledge in writing the receipt of Notifications and Replies and will provide Respondents with a copy of an Applicant’s completed Notification and Applicants with a copy of a Respondent’s completed Reply.
14. If an Applicant fails to respond to communications from the Tribunal or otherwise fails to respond to procedural direction from the Tribunal, the Tribunal may give the Applicant reasonable notice of its intention to dismiss the Notification.
15. If an Applicant or a Respondent fails to respond to any

Notice given by the Tribunal which requires a Party to follow a procedural direction within a fixed period of time, the Tribunal may:

in the case of an Applicant, dismiss the Notification in accordance with s. 24(3)(a) of the *Act*; or,
in the case of a Respondent, fix a date for hearing without further notice to the Respondent.

16. The Tribunal may allow an Applicant or a Respondent to amend a Notification or Reply, or extend or abridge any period of time fixed under these Rules, upon application to the Tribunal.
17. Filed Notifications and Replies will not be disclosed to the public by the Tribunal.

Special Remedies

18. An Applicant shall give notice to the Tribunal of any application to a Judge made under Sections 39 and 40 of the *Act* and shall file with the Tribunal a copy of any judgment, reasons for judgment or Order resulting from such application.

Decisions of the Tribunal

19. The Tribunal will file and serve upon the Parties to a Notification written reasons for all decision made under Part 4 or Part 5 of the *Act*.

Settlement Proceedings

20. The Tribunal may attempt to effect a settlement of the allegations contained in a Notification by using whatever resources and means, including mediation, it deems acceptable.
21. The Parties to a Notification may seek the assistance of such persons to help them effect a settlement as they deem necessary or advisable subject always to the discretion of the Tribunal to exclude persons whose presence during settlement proceedings are neither necessary or appropriate.
22. Parties (and any other persons who participate in settlement proceedings) agree to participate in settlement proceedings relating to allegations contained in a Notification are deemed to have agreed as follows:
 - (a) that the proceedings are private and confidential as between the Parties and the other participants and may not be disclosed to any person who is not a Party to the settlement proceedings nor be used in any other proceedings of any kind arising from a Notification;
 - (b) that they shall make full and complete disclosure of all relevant information, documents and materials, each

to the other, that may reasonably be expected to be important to achieving a mutually satisfactory outcome of the settlement proceedings;

(c) that an agreement resulting from settlement proceedings initiated by the Tribunal shall be reviewed by the Tribunal;

(d) that the Tribunal may require the Parties to consent to an order setting out the terms and conditions of settlement.

23. An order resulting from settlement proceedings may be filed and enforced in the same manner as an order resulting from a hearing.
24. Nothing in this section is intended to prevent Applicants and Respondents from entering into settlement discussions on their own and making agreements in relation to a Notification. Any agreement so made is subject to Rules 22 (c) and (d) and 23 herein.
25. Where a settlement agreement is made between Parties to a Notification, the Applicant may request in writing that further proceedings before the Tribunal be discontinued subject to the review conducted by the Tribunal under Rule 22.
26. The Tribunal may reject a request to discontinue proceedings in relation to the settlement of a Notification where, in the view of the Tribunal:
 - the settlement agreement does not dispose of all of the allegations contained in the Notification;
 - there are Parties to the Notification who have not settled;
 - the settlement agreement does not address systemic issues arising from the allegations;
 - the settlement agreement is unconscionable.
27. An Applicant may withdraw all or part of a Notification using a form provided by the Tribunal, at any time prior to entering into a settlement agreement with a Respondent.

Pre-hearings

28. The Tribunal may require the Parties to attend a pre-hearing conference for the purpose of facilitating the just, fair and timely resolution of the Notification.
29. Without limiting the generality of Rule 28, the Tribunal may use a pre-hearing conference to:
 - (a) discuss issues relating to the Notification and Reply and the possibility of simplifying or settling all or part of such issues;
 - (b) discuss the content of the Record, if any, that is to

be given to the Tribunal before hearing;

(c) determine the procedures to be used before and during the hearing, including (but not limited to) the disclosure of documents and witness summaries, the form and manner of giving notices to the Parties and requiring the attendance of witnesses, the need for and type of recording of evidence, any preliminary applications and the date, time and location of the hearing;

(d) determine whether any of the Parties require accommodation.

30. The Tribunal may hold pre-hearing conferences via telephone, teleconference, video-conference or in such other manner as the Tribunal may direct.
31. If a Party fails to attend a pre-hearing conference after having received Notice of a Pre-hearing Conference, the Tribunal may proceed to hold the Conference and make decisions or orders in relation to the hearing, in the absence of the non-attending Party.
32. A pre-hearing conference or a hearing may be adjourned by the Tribunal on its own motion or upon application of a Party.
33. Unless the Tribunal decides not to deal with a Notification for any reason, the first pre-hearing conference shall take place within sixty (60) days of the receipt of a Respondent's Reply.

Preliminary Applications

34. Applications to the Tribunal before a hearing shall be made in the following manner:
 - (a) the Applicant shall prepare a Preliminary Application form and deliver it by telecopier or such other agreed upon means to the Executive Director;
 - (d) the Executive Director shall serve a copy of the Preliminary Application on the Parties and make arrangements for the preliminary application to be heard and notify the Parties accordingly.

Hearings

35. Hearings shall be oral unless otherwise directed by the Tribunal and may take place at such places, at such times and in such manner, including via telephone, teleconference or videoconference, as the Tribunal may order or direct, on Notice to the Parties.
36. Where a Party fails to attend a hearing for which Notice was given, the Tribunal may proceed with the hearing in the absence of the Party and make decisions and orders based on the evidence adduced at the

hearing.


37. Hearings may be attended by the public unless the Tribunal, on its own motion, or upon application by a Party, decides that members of the public are to be excluded for all or part of a hearing.
38. Hearings will not be recorded unless the Tribunal so directs or unless a Party makes acceptable arrangements at its own cost for a recording and transcription of the proceedings and provides the Tribunal and the other Parties to the hearing with a copy thereof.
39. The Tribunal at or before the hearing may decide how the hearing will be conducted and, without limiting the generality of the foregoing, may require the Parties to file and exchange written briefs and legal authorities prior to the hearing, summon any person as a witness, require any person to produce documents, records or things and administer oaths and affirmations.
40. The Tribunal may give such directions and orders to the Parties and to members of the public who are in attendance at hearings as it deems necessary to facilitate the orderly conduct of proceedings.
41. Unless the Tribunal decides not to deal with a Notification for any reason, a Hearing shall take place within ninety (90) days of the first pre-hearing conference.

Decisions and Orders of the Tribunal

42. A decision or order of the Tribunal is effective the date on which it is made unless otherwise specified by the Tribunal.
43. The Tribunal may issue decisions and orders signed in counterparts by the Members of the Tribunal.
44. A Human Rights Officer or the Executive Director of the Tribunal may, under their signatures, certify that copies of original documents issued by the Tribunal are true copies and such copies may be filed and used in proceedings before the Tribunal as if they were the original documents.
45. Technical or typographical errors in a written decision or order of the Tribunal may be amended by the Tribunal on its own motion or upon application of a Party.

Service of Documents

46. Unless specifically provided otherwise in these Rules, any notice required to be given or any document



required to be served by the Tribunal or a Party may be given or served personally, by registered mail, by Email or by telecopier.

47. Notwithstanding Rule 46, a Human Rights Officer or the Executive Director may, to expedite proceedings, give oral notice of proceedings to a Party via telephone.
48. A Party who is required by the Tribunal to give proof of service must do so under oath.

Inuit Culture and Values

49. Where applicable, these Rules shall be interpreted in a manner that recognizes and makes special provision for Inuit culture and values that underlie the Inuit way of life.

Appendix 4:

Publications Available upon request: All publications are available in Inuktitut, English, French and Inuinnaqtun. The Nunavut Human Rights Act is available only in 3 languages.

Nunavut Human Rights Act
Nunavut Human Rights General Information
The Application Process
Rules of Procedure
The Application Process.

Soon to be released:
A Guide for Respondents
The Mediation Process
The Hearing Process

Contact our Office

By Phone

Toll Free 1-866-413-6478
1-867-925-8447

By Fax

1-867-925-8453

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Nunavuthumanrights@gvo.nu.ca

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PO Box 15
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