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Nunavut Human Rights Tribunal
Nunavunmi Inungnut Pitqutigiyayunut Ihuqhaiyit
Tribunal des droits de la personne du Nunavut

2011-2012

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ANNUAL REPORT
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Letter of Transmittal

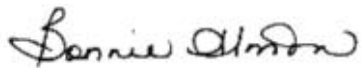
September 14, 2012

The Honourable Daniel Shewchuk
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 fourth annual report of the Nunavut Human Rights Tribunal for the fiscal year ending March 31st, 2012.

Respectfully submitted by



Bonnie Almon
Chair

2011 Annual General Meeting, Iqaluit, July 5, 2011. The Tribunal met to review its activity, goals and objectives for the previous fiscal year and plan for the 12-13 fiscal year. Seated is (L-R) Alan Weeks, Gary Zagerman (transcriptionist), Bonnie Almon, Errol Fletcher, Louise Haulli, Marion Love and Reema Khawja. Missing, Rosie Tanuyak-Ell and Leo Angootealuk.





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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 sixth report for the period commencing April 1st, 2011 and concluding on March 31st, 2012.

During this reporting period the Tribunal conducted its first and second hearing. The first hearing was held in Iqaluit in July 2011. The second hearing was conducted again in Iqaluit in December.

Martin Kreelak resigned during the fiscal year. In addition our former chair, Errol Fletcher's term expired. As of March 31, 2012 our remaining members are Louise Haulli, Alan Weeks and myself. A call for new members was issued on March 30, 2012. We are optimistic that we shall have two new members on strength by June.

We held our Annual meeting in Iqaluit on July 6th with four of the five members present. We reviewed our hearing procedures, rules of procedures and other administrative matters.

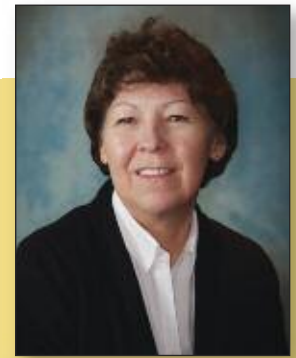
Staff has reported an increase in notifications and inquiries being filed. There was dramatic increase in inquiries in the last quarter of this fiscal year. Half of the inquiries received during the 11-12 fiscal year were received during the last quarter. We believe the media coverage that we obtained as result of the two hearings contributed to this increase.

The Department of Justice completed a legislative and process review of the Tribunal. We look forward to reviewing the report and implementing any changes recommended. This review is the first one completed since the Tribunal was created.

Lastly, I want to commend our staff and legal counsel for their dedication and commitment. The Tribunal membership has changed considerably over the last seven years, but our staff have remained constant. Their corporate knowledge is invaluable.

In closing I would like to thank Errol for his dedication and leadership he so effortlessly put forth throughout the four years as Chair of the Tribunal.

Bonnie Almon
Chair



For the past 3 years Ms. Almon has been employed as the Director of Community Wellness for the Hamlet of Kugluktuk. She also is also a Justice of the Peace and Coroner for Nunavut. Ms. Almon also is active in community organizations as a Justice Committee member and a Board Member for the Kugluktuk Housing Association. Bonnie has a Bachelor's Degree in Social Work. She brings an extensive and varied background in social justice and human rights.



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Nunavut Human Rights Tribunal
Nunavunmi Inungnut Pitqutigiyaayunut Ihuaqhaiiit
Tribunal des droits de la personne du Nunavut

nhrt.ca

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, goods 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 which 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, 2012, the Tribunal consisted of members Louise Haulli, Alan Weeks and Bonnie Almon.

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 Tribunals are in Ontario and 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 state 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, Aboriginal Affairs and Northern Development Canada?
- 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 a 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 she or he has been discriminated against. The form can be completed orally or in writing. It can be mailed, faxed, or emailed 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?

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 a 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 organizations 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 Applicants may have, e.g. interpreter services. Anything that is said to a Human Rights Officer or the Director is confidential.

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



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 the 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.

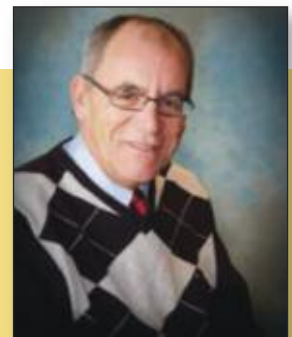
The Tribunal may then try to settle the Notification using Tribunal members, independent mediators, community elders or other organizations. The Applicant and Respondent are encouraged to enter into mediation to settle the matter. If the matter is settled and a settlement agreement is made, the Notification 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, and, 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.

Alan Weeks was born, raised and educated in Nova Scotia. He graduated from NSCC with a Diploma in Social Work. In Nova Scotia, he was a Justice of the Peace for eleven (11) years, a Probation Officer, Child Protection Caseworker and adjudicator for Workers' Compensation Board. Alan has been living in the North now for three years and is involved with the community. He is the Vice-Chair of the Iqaluit District Education Authority.



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, 2011 to March 31st, 2012: 7 notifications and 60 inquiries were received. This represents a seven fold increase in the number of notifications received over the previous fiscal year. The number of inquiries received increased by 154%.

Table 1: Activity During Reporting Period						
	11-12	10-11	09-10	08-09	04-08	Total
Notifications Received	7	1	5	7	44	64
Inquiries Received	60	39	59	50	270	478
Settlement Proceedings	2	3	1	2	8	16
Decisions Issued	9	13	14	13	31	80
Pre-hearings	3	6	1	-	0	10
Hearings	2	-	-	-	-	2

Table 1 summarizes the activity of the Tribunal during the reporting period.

The case load had increased only by 1% from the previous reporting period. Though there was an increase in the number of notifications received, many files were closed as settlements were reached, hearings were conducted and Part 4 decisions to close or dismiss files were rendered.

Table 2: Case Load Summary			
FY	Total	Open	%
11-12	64	13	20%
10-11	57	11	19%
09-10	56	18	32%
08-09	51	24	47%
07-08	44	25	57%
06-07	34	27	79%
04-06	17	11	65%

As of March 31, 2012 there are only 3 decisions outstanding. The Tribunal has been able to decrease the back log in Part 4 decisions from previous fiscal years considerably.

Table 3: Notification Status as of March 31, 2012							
Filed in:	11-12	10-11	09-10	08-09	04-08	Total	%
Stage							
Application	4					4	6%
Request for Reply	2					2	3%
Part 4 Review	1					1	2%
Request to Withdraw							
Mediation			1			1	2%
Inactive			2		7	9	14%
Dismissed		1	1	4	16	22	34%
Withdrawn				2	1	3	5%
Settled					16	16	25%
Prehearing			1	1	1	3	5%
Prehearing Decision Pending					1	1	2%
Hearing Order Pending					1	1	2%
Hearing Order Issued					1	1	2%
Total Active	7	0	2	1	3	13	20%
Total Closed	0	1	3	6	41	51	80%
Total Files	7	1	5	7	44	64	

Table 3 summarizes the status of all Notifications received since November 4, 2004. The number of decisions pending has remained almost the same as the previous report.

An application to appeal Part 4 decision issued in 10-11 has been filed with the Nunavut Court of Justice. The application has yet to be heard.

The average amount of time taken to issue a Part 4 decision is illustrated in Table 4. Notifications during this fiscal year had not been presented to the Tribunal for Part 4 decisions as of March 31, 2012.

FY	Filing	Decisions
11-12	0.7	n/a
10-11	1	0.4
09-10	1.6	0.5
08-09	1.9	0.9
04-08	2.5	1
All Active	2.2	0.5
All Closed	2.6	0.9
All Files	2.5	0.9

Table 4 also illustrates the amount of time that a file is open and before the Tribunal. Duration is the amount of time that has past from the date the file is opened and the date that it is closed. The average age of filing has remained constant compared to the previous reporting period. Two files are from the 05-06 fiscal year.

Once a Part 4 Decision is rendered the 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. Again Parties indicated that the pre-Mediation conferences were very beneficial.

Filed in	11-12	10-11	09-10	08-09	04-08	Total
Total Files	7	1	5	7	44	64
Potential Mediations	-	0	2	1	27	30
Mediation Attempts	-	-	2	1	24	27
Settlements	-	-	0	0	17	17
External Settlements	-	-	0	0	8	8
Advance to Hearing			2			
Success Rate	n/a	n/a	0%	0%	71%	61%

Table 5 presents the success rate of mediation in our process. Three mediation attempts resulted in the hearings being scheduled. A hearing was adjourned at the request of the Parties. A settlement was reached and the hearing was cancelled.

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. Often notifications are filed by individuals once they have left Nunavut or are in the process of moving out of Nunavut.

Again the majority of alleged acts of discrimination have occurred in the Baffin Region. In this reporting period a disproportionately higher number were received from Baffin.

	11-12		10-11		09-10		08-09		04-08		Total		NU
	#	%	#	%	#	%	#	%	#	%	#	%	
Baffin	6	86%			5	100%	6	86%	25	57%	42	66%	53%
Kivalliq	1	14%							15	34%	16	25%	28%
Kitikmeot	0		1	100%			1	14%	3	7%	5	8%	18%
Outside Nunavut	0								1	2%	1	2%	
Total	7	100%	1	100%	5	100%	7	100%	44	100%	64	100%	

Almost an equal number of the inquiries came from the Kivalliq and Baffin regions. There was a decrease in the number of inquiries originating from the Kitikmeot.

The majority of the inquirers and applicants have noted that they obtained information about the Tribunal from publications posted in their community offices and/or businesses.

Table 7: Alleged Inquiry Act Occurred Where

	11-12		10-11		09-10		08-09		04-08		Total		NU
	#	%	#	%	#	%	#	%	#	%	#	%	
Total Inquiries	60		39		59		50		258		466		
Baffin	28	47%	12	31%	31	53%	16	32%	17	31%	104	40%	53%
Kivalliq	26	43%	16	41%	11	19%	18	36%	19	35%	90	34%	28%
Kitikmeot	1	2%	7	18%	5	8%	7	14%	8	15%	28	11%	18%
Outside Nunavut	2	3%	3	8%	3	5%	5	10%	6	11%	19	7%	
Not Given	3	5%	1	3%	9	15%	4	8%	5	9%	22	8%	
Total	60	100%	39	100%	59	100%	50	100%	55	100%	263	100%	

WHAT TYPES OF DISCRIMINATION ARE BEING FILED?

Disability was listed most frequently as a ground in the notifications that were filed in the 11-12 fiscal year. Overall race has been listed most frequently followed by disability and ethnic origin.

Table 8: Grounds Listed in Notifications

	11-12		10-11		09-10		08-09		04-08		Total	
	Count	%	Count	%	Count	%	Count	%	Count	%	Count	%
Total Notifications	7		1		5		7		44		64	
Age					1	8%	2	13%	5	4%	8	6%
Ancestry			1	33%					7	6%	10	7%
Citizenship					2	15%			1	1%	3	2%
Colour					2	15%	1	7%	7	6%	10	7%
Creed									5	4%	5	4%
Disability	4	50%							16	14%	22	15%
Ethnic			1	33%					19	16%	20	14%
Family Status	1	13%							5	4%	7	5%
Harassment									1	1%	1	1%
Lawful Source of income	2	25%							2	2%	7	5%
Pardoned Conviction			1	33%							1	1%
Place of Origin					3	23%	2	13%	9	8%	14	10%
Pregnancy									1	1%	1	1%
Race	1	13%			3	23%	1	7%	30	26%	35	25%
Religion									1	1%	1	1%
Sex									7	6%	7	5%
Sexual Orientation							1	7%			1	1%
Harassment-s.7.6												
Harassment-s.15												
Not Covered					2	15%					2	1%
Total	8	100%	3	100%	13	100%	15	100%	116	100%	142	100%

Disability remains to be listed most frequently as a ground in inquiries received by the office. Grounds that are not covered under the *Act* such as employer-employee relations, labour standards issues and child care account for forty-three percent of all inquiries. The office will refer individuals most frequently to the Labour Standards Office, Human Resources Canada (HRDC), and GN-Department of Human Resources.

Table 9: Grounds Listed in Inquiries

	11-12		10-11		09-10		08-09		04-08		Total	
	Count	%	Count	%	Count	%	Count	%	Count	%	Count	%
Total Inquiries	60		39		59		50		270		478	
Age	3	4%	2	4%					8	3%	21	2%
Ancestry	2	3%	3	6%	2	3%	1	2%	8	3%	24	3%
Citizenship							2	4%	1	0%	4	0%
Colour			3	6%	2	3%			3	1%	11	1%
Creed			1	2%	1	2%			1	0%	4	0%
Disability	3	4%	4	8%	6	9%	5	10%	33	11%	84	10%
Ethnic Origin	5	7%	2	4%	3	5%	1	2%	21	7%	53	6%
Family Status	4	6%							9	3%	22	3%
Lawful Source of income					1	2%	1	2%	3	1%	8	1%
Marital Status												
Pardoned Conviction												
Place of Origin					1	2%	1	2%	4	1%	10	1%
Pregnancy							2	4%	7	2%	16	2%
Race	5	7%	5	10%	3	5%			16	5%	45	5%
Religion							1	2%	5	2%	11	1%
Sex	4	6%	3	6%			3	6%	22	7%	54	6%
Sexual Orientation	1	1%			1	2%			1	0%	4	0%
Harassment-s.7.6			1	2%	2	3%	2	4%	1	0%	7	1%
Harassment-s.15									3	1%	6	1%
Not Covered	29	43%	18	37%	34	53%	30	58%	82	27%	275	33%
Not Given	11	16%	7	14%	8	13%	3	6%	77	25%	183	22%
Total**	67	100%	49	100%	64	100%	52	100%	305	100%	842	100%

**Total can be greater than the total inquiries because one inquiry can identify more than one ground at a time.

Alan Weeks adjudicated the Tribunal's first hearing *Blanchette vs Vendetti*, in Iqaluit, July 2011.



OCURRED WHILE

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

	11-12		10-11		09-10		08-09		04-08		Total	
	#	%	#	%	#	%	#	%	#	%	#	%
Working or Seeking work	5	71%	1	100%	5	100%	6	86%	32	73%	81	84%
Membership									5	11%	5	5%
Seeking Services & Goods	1	14%					1	14%	7	16%	9	9%
Tenancy	1	14%									1	1%
Publications												
Filing												
Total	7	100%	1	100%	5	100%	7	100%	44	100%	96	100%

	11-12		10-11		09-10		08-09		04-08		Total	
	#	%	#	%	#	%	#	%	#	%	#	%
Working or Seeking work	40	67%	25	42%	35	59%	27	54%	153	57%	433	58%
Seeking Membership									1	0%	2	0%
Seeking Goods, Services, etc	5	8%	1	2%	2	3%	7	14%	20	7%	55	7%
Tenancy	3	5%					2	4%	5	2%	15	2%
Publications									1	0%	2	0%
Filing a Complaint with NHRT									2	1%	4	1%
None of the Above	12	20%	13	22%	22	37%	14	28%	88	33%	237	32%
Total Inquiries	60	100%	39	66%	59	100%	50	100%	270	100%	748	100%

HEARINGS

The Tribunal scheduled 3 hearings during the reporting period.

Hearing #NU-01: Blanchette v. Vendetti

The Tribunal conducted its first hearing in July 2011 in Iqaluit, Blanchette vs Vendetti. The applicant, Martin Blanchette filed against his former employer, Cecil Vendetti in December 2005 under sections 7 and 9 of *the Act*. Mr. Blanchette alleged that he experienced discrimination in employment because of disability. Neither the respondent nor any representative appeared at the hearing.

The Tribunal under s. 34 of *the Act* ordered damages to compensate Mr. Blanchette for lost wages or expenses resulting from the discrimination. An award could also be made for injury to dignity, feelings or self-respect as a result of the discrimination. Mr. Blanchette only asked for lost wages. The Tribunal ordered Mr. Vendetti to pay the applicant, Mr. Blanchette a sum of \$19, 500. Decision index: Blanchette v. Vendetti, 2011 NHRT 1.

Hearing #NU-02: Petaulassie v. Hamlet of Cape Dorset

A second hearing was conducted in December of 2011 in Iqaluit. The Notification was filed by Peter Petaulassie alleging discrimination against the Hamlet of Cape Dorset in January of 2007. Mr. Petaulassie presented evidence that he suffered discrimination of the grounds of family status during a job competition with the Hamlet of Cape Dorset in May of 2005. Mr. Petaulassie had applied for the position of Arena Manager/Recreation Coordinator with the Hamlet. Three individuals had applied for the position. One applicant, William Sandoval was the common law son-in-law of the Director of Recreation. Mr. Sandoval was the successful candidate.

The Tribunal did find that Mr. Petaulassie was qualified for Arena Manager position and that Mr. Sandoval was no more qualified than Mr. Petaulassie but was given the job. He was a family member of the Recreation Director, while Mr. Petaulassie clearly was not.

Mr. Petaulassie's evidence was not refuted by the respondent. The Tribunal stated that Mr. Petaulassie was not given an equal opportunity to compete for the job and that this was because he was not related to someone who worked there. The Tribunal found that this constitutes discrimination based on family status.

The Tribunal under s. 34 of *the Act* orders damages to compensate Mr. Petaulassie for lost wages or expenses and in addition awards monies for injury to dignity, feelings or self-respect resulting from the discrimination. The Tribunal ordered the Hamlet of Cape Dorset to pay Mr. Petaulassie a sum of \$20,314.89. Decision index: Petaulassie v. Hamlet of Cape Dorset 2011 NHRT 2.

Hearing #NU-03

This hearing was adjourned at the request of the Applicant. The Parties to this matter were able to reach a settlement agreement. The Tribunal cancelled the hearing and closed the matter.

Conducting hearings is a very effective means to expose the public to its business. 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.

OTHER OBSERVATIONS

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 are completed by teleconference.

The lack of face-to-face interaction with clients and the Tribunal is an added challenge. Great attention has been placed on keeping staff and Members engaged. 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 the responsibility of the Nunavut Legal Services Board (s. 49). 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. The poverty legal counsel has assisted many individuals in filing a notification.

Several applicants have related to the Staff that they are unable to secure legal counsel that have the capacity to deal with human rights issues. Many legal counsels are not taking any new clients on.

Table 12: Legal Representation

	Total	LC	%
Applicants	65	7	11%
Respondents	109	28	26%
Total	174	35	20%

One in five Parties that are involved in matters before the Tribunal is represented by legal counsel. Applicants are less likely to be represented by legal counsel than the respondents. This is consistent with other jurisdictions in Canada.

Six of the seven applicants that were represented, were successful. The one applicant chose to withdraw their application.

Only eight of the one hundred-nine respondents that were represented (7%) were successful in matters before the Tribunal.

OTHER ACTIVITIES

Tribunal Staff and Members participated in the 2011 Canadian Council of Administrative Tribunals. This conference provided staff an opportunity to network with colleagues from across Canada.

Staff have been able to participate in GN sponsored professional development activities during this reporting period.

Appendix 1: Statement of Financial Operations

NUNAVUT HUMAN RIGHTS TRIBUNAL

STATEMENT OF OPERATIONS

The firm of Mackay Landau Chartered Accounts was retained by the Nunavut Human Rights Tribunal under the Government of Nunavut Standing Offer for Financial Reporting #2009-12.

The financial statements for the fiscal year ending March 31, 2012 are presented. Management is responsible for establishing and maintaining an adequate internal control structure and procedures for financial reporting. The auditors, Mackay Landau, is responsible for expressing an opinion on whether the financial statements present fairly, in all material respects, the financial position, results of operations and cash flows of the Tribunal in accordance with Canadian generally accepted accounting principles.

The accounting policies followed by the Tribunal are in accordance with the Financial Administration manual of the Government of Nunavut and include the following significant account policies:

1. Use of Estimates

The preparation of the financial statements of the Tribunal requires management to make estimates and assumptions based on the information available to them as of the date of the financial statements. Therefore, actual results could differ from those estimates.

2. Revenue Recognition

Restricted contributions related to general operations are recognized as revenue in the year in which the related expenses are incurred. Unrestricted contributions are recognized in the year received can be reasonably estimated and collection is reasonably assured.

3. Accrual Basis

The statement of operations has been prepared using the accrual basis of accounting.

Government of Nunavut Fund Balance	2012	2011
Opening Balance	\$ 2,550,811	\$ 1,894,708
Revenues	(602,191)	(689,039)
Contributions withheld	602,191	689,039
Expenses incurred on behalf of the Tribunal	0	689,039
Changes in:		
GST Rebate	(20,270)	11,737
Accounts Receivable	(22)	22
Post Employment Benefits	(8,520)	(44,695)
Closing Balance	<u>\$ 2,521,999</u>	<u>\$ 2,550,811</u>

Amounts due to the Government of Nunavut are non-interest bearing, unsecured and have no specific terms of repayment.

Nunavut Human Rights Tribunal Statement of Operations For the Year Ended March 31, 2012			
	Budget 2012 (Unaudited)	2012	2011
Revenues			
Government of Nunavut	\$ 795,000	\$ 602,191	\$ 689,039
Expenses			
Advertising and Publications	30,000	23,349	38,922
Conferences and Catering	0	4,826	10,856
Equipment Purchases	10,000	8,419	10,902
Fees, Memberships and Licenses	5,000	37,249	2,639
Freight and Courier Fees	0	3,743	4,553
Legal Counsel Fees	90,000	65,203	76,854
Honorarium	80,000	27,906	33,854
Office	34,000	15,252	23,815
Other	0	0	207
Salaries and Benefits	436,000	349,506	414,374
Training	0	0	1,658
Translation Services	0	2,167	9,401
Travel, Accommodations and Incidentals	100,000	64,571	61,477
	<u>\$ 795,000</u>	<u>\$ 602,191</u>	<u>\$ 689,039</u>
Excess Revenues (Expenses)	<u>\$ 0</u>	<u>\$ 0</u>	<u>\$ 0</u>

INDEPENDENT AUDITORS' REPORT

To the Minister of Justice, Government of Nunavut

We have audited the accompanying statement of operations of the Nunavut Human Rights Tribunal relating to the revenues and expenses connected with operating the Tribunal in accordance with the Human Rights Act of Nunavut for the year ended March 31, 2012, and a summary of significant accounting policies and other explanatory information.

Management's Responsibility for the Statement of Operations

Management is responsible for the preparation and fair presentation of this statement of operations in accordance with the basis of accounting disclosed in Note 2 to the statement of operations, and for such internal control as management determines is necessary to enable the preparation of the statement of operations that is free of material misstatement, whether due to fraud or error.

Auditors' Responsibility

Our responsibility is to express an opinion on the statement of operations in accordance with Canadian generally accepted auditing standards. Those standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the statement of operations is free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the statement of operations. The procedures selected depend on the auditors' judgment, including the assessment of the risks of material misstatement of the statement of operations, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the Tribunal's preparation and fair presentation of the statement of operations in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Tribunal's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluation of the overall presentation of the statement of operations.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the statement of operations of the Nunavut Human Rights Tribunal presents fairly, in all material respects the revenues and expenses connected with operating the Tribunal in accordance with the Human Rights Act of Nunavut for the year ended March 31, 2012 in accordance with the basis of accounting disclosed in Note 2 to the statement of operations.

Report on Other Legal and Regulatory Requirements

We further report, in accordance with the Financial Administration Act, in our opinion, proper books of account have been kept by the Nunavut Human Rights Tribunal, the statement of operations is in agreement therewith and the transactions that have come under our notice have, in all significant respects, been within the statutory powers of the Nunavut Human Rights Tribunal.

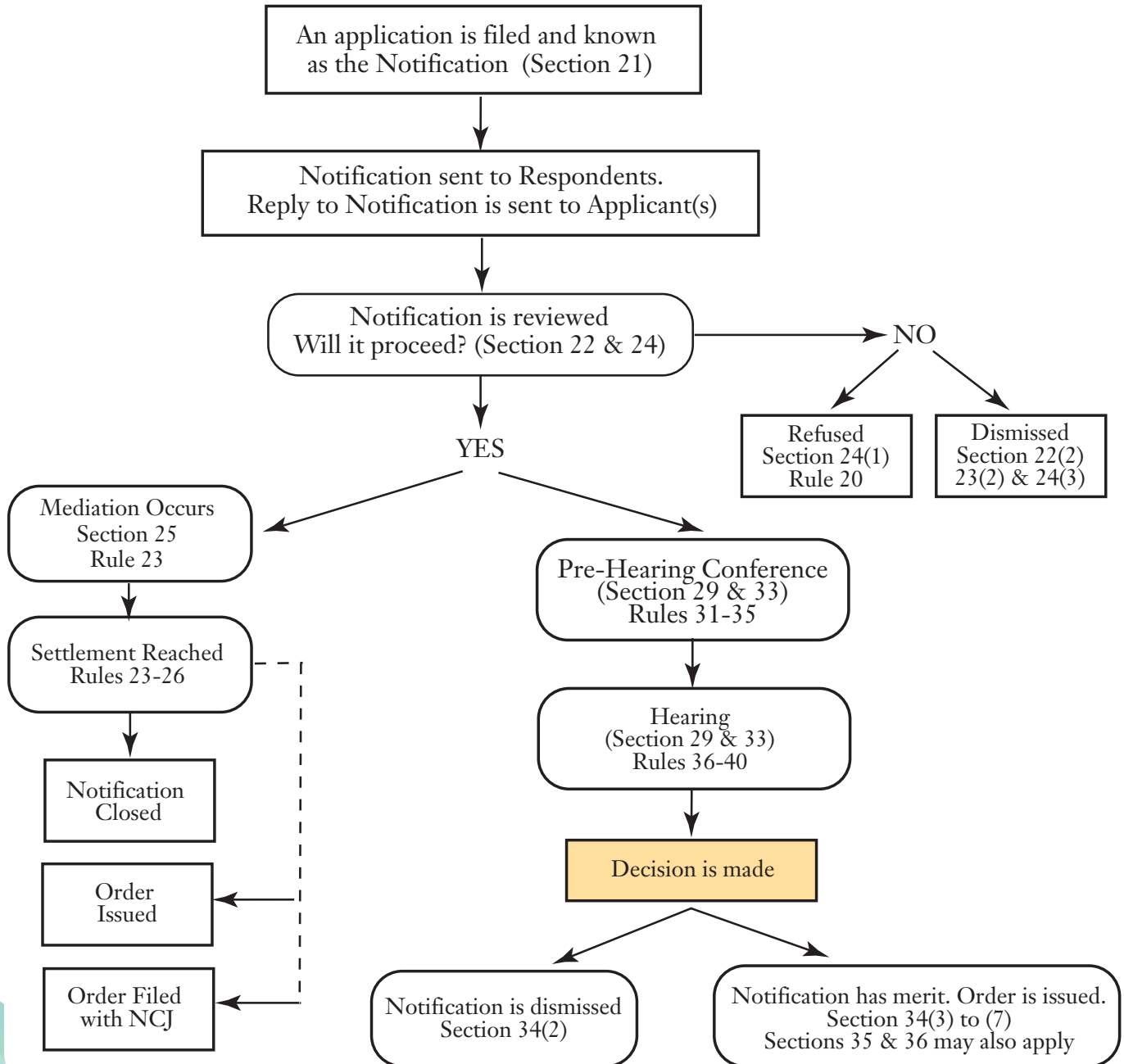
MacKay London.

Iqaluit, Nunavut
August 2, 2012

CHARTERED ACCOUNTANTS

Appendix 2: Notification Process

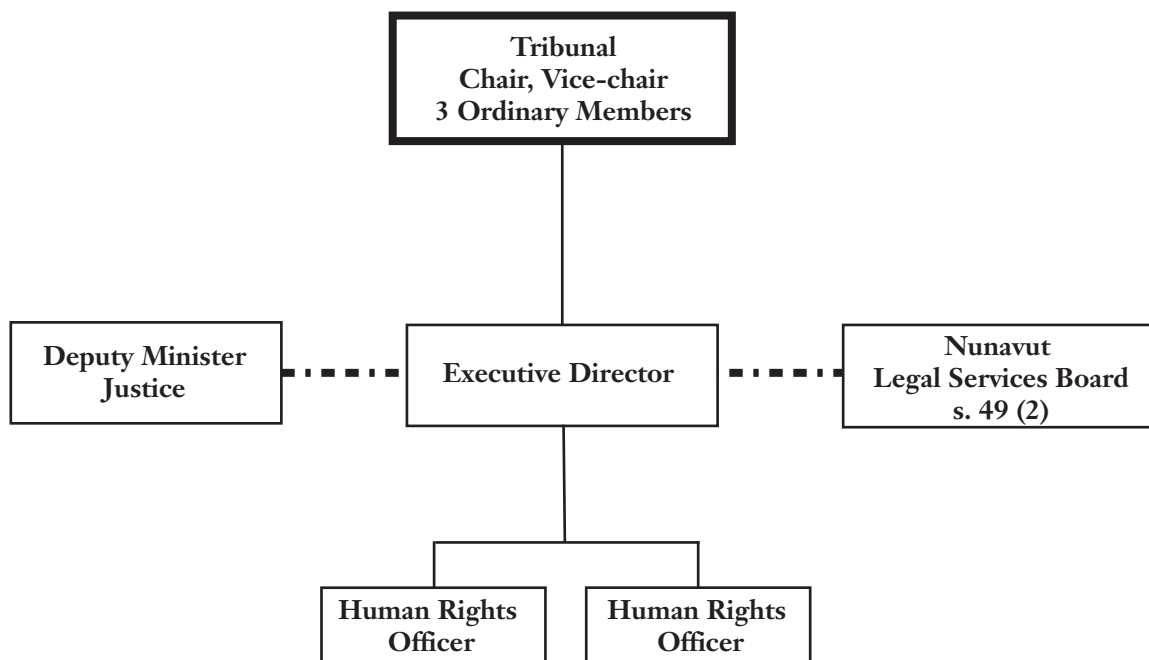
Nunavut Human Rights Act Notification Process



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 3: Nunavut Human Rights Tribunal Organizational Chart



Note: - - - - - denotes indirect reporting relationship

Appendix 4: Rules of Procedure

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) “**Human Rights Officer**” means any employee of the Tribunal.
 - (d) “Mediation” includes any problem solving process other than a hearing, including discussions and negotiations, between an Applicant and Respondent that the Tribunal deems acceptable.
 - (e) “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.
 - (f) “Notification” means a written record made by or on behalf of an Applicant under s. 21 of the *Act*.
 - (g) “Party” means an Applicant or a Respondent or any other person described in s. 28 of the *Act*.

- (h) “Record” means documents that the Parties to a hearing agree to present to the Tribunal prior to a Hearing.
- (i) “Reply” or “Reply to a Notification” means a written record in response to a Notification that is received by the Tribunal.
- (j) “Respondent” means any person(s) named in a Notification who is alleged to have contravened the *Act*.
- (k) “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 Human Rights Officer**, 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 Inuinnaqtun language may be used to complete a Notification or a Reply and may be used in any other correspondence or communications with the Tribunal.
- 9.1 A Notification must be filed with the Tribunal within two (2) years of the last alleged contravention of the *Act*.
- 9.2 **If a Notification received by the Tribunal contains allegations which exceed the 2 year limitation period contained in s. 23 of the Act, the Tribunal will draw the Respondent’s attention to such allegations and, if the Respondent does not consent to the filing of the Notification, the Tribunal will fix a date for the hearing of the Respondent’s application to dismiss the Notification, upon Notice to both parties.**
10. The Tribunal may 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 item accepted at Canada Post** appearing on Canada Post website.

11. A Reply must be filed with the Tribunal within sixty (60) days of service of a Notification upon a Respondent.
12. A Human Rights Officer 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.
- 14.1 **Applicants and Respondents are required to advise the Tribunal of any change in contact information.**
- 14.2 **If an Applicant or Respondent fails to respond to communications from the Tribunal within a reasonable period of time, the Tribunal may give Notice of any further proceedings at the last known address of the Party.**
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:
 - (a) in the case of an Applicant, dismiss the complaint in accordance with s. 24(3)(a) of the *Act*; or,
 - (b) 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, by mutual consent or upon application to the Tribunal.**
17. **The contents of filed Notifications and Replies will not be disclosed to the public by the Tribunal before a hearing is directed under s. 27 (1) of the Act.**

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 complaint 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 nor 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 24.
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:
 - (a) the settlement agreement does not dispose of all of the allegations contained in the Notification;
 - (b) there are Parties to the Notification who have not settled;
 - (c) **the settlement agreement does not address systemic or public interest issues arising from the allegations;**
 - (d) 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 **ninety (90) 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;
 - (b) 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

- 35.1 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.
- 35.2 The Tribunal may post public notice of hearings in such manner as it deems appropriate.**
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 **initiative**, 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 **one hundred and twenty (120) 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 **or as agreed to between the Parties**, any notice required to be given or any document required to be served by the Tribunal or a Party may be served personally, by registered mail, by Email or by telecopier.
47. Notwithstanding Rule 46, on the direction of the Tribunal 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 5:

Various publications are available upon request. All publications are available in Inuktitut, English, French and Inuinnaqtun.

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

Contact our Office:

By Phone

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

By Fax

Toll Free 1-888-220-1011

By Email


Nunavuthumanrights@gov.nu.ca

By Mail

Nunavut Human Rights Tribunal
PO Box 15
Coral Harbour, NU X0C 0C0

Visit our Website

nhrt.ca



PO Box 15
Coral Harbour, NU X0C 0C0
☎ 1 867 925 8447
☎ 1 866 413 6478
☎ 1 867 925 8453

nunavuthumanrights@gov.nu.ca
www.NHRT.ca