

PRACTICE NOTE

CANADIAN HUMAN RIGHTS TRIBUNAL

PRACTICE NOTE No. 3

June 16 2009

RE: Case Management

The Tribunal has a duty to conduct inquiries expeditiously and fairly pursuant to section 48.9(1) of the Canadian Human Rights Act. Accordingly, and subject to the Tribunal's direction on a case-by-case basis, the Tribunal will apply the following time periods to the pre-hearing case management process:

Initial Letter from TRIBUNAL

1. Following the referral of the complaint to the Tribunal, the Tribunal Registry will send an Initial Letter to each party.
2. The Initial Letter will fix a date and time for the First Case Management Conference Call, which will take place within two (2) weeks of the date of the Initial Letter.
3. The Initial Letter will also request that the parties either
 - a. accept mediation and indicate their availability for a one-day mediation session, to take place within six (6) weeks of the date of the Initial Letter, or
 - b. decline mediation.

First Case Management Conference Call

4. At the First Case Management Conference Call, each party must indicate whether it declines or accepts mediation. If mediation is accepted, each party must indicate its dates of availability for the mediation session. In the case of unanimous acceptance of mediation, and common availability, the date, time and location of the mediation session will be fixed by the Tribunal.
5. At the First Case Management Conference Call, the dates by which each party shall provide particulars and disclosure must also be confirmed, and a date will be fixed by the Tribunal for the Second Case Management Conference Call.

Commission File

6. The Commission will be required to serve on the other parties the documents in its possession (the "Commission File") relevant to the complaint that is the subject of the inquiry,
 - a. within three (3) weeks of the First Case Management Conference Call, where no mediation session was fixed;

b. within three (3) weeks of the mediation session, where no settlement occurred during the mediation session.

Statement of Particulars;

7. Within two (2) weeks of the date fixed for service of the Commission File, the Complainant and the Commission will be required to serve and file a Statement of Particulars that complies with Rules 6(1)(a), (b) and (c) of the Tribunal Rules of Procedure (material facts; legal issues; relief sought).

8. Within three (3) weeks of the date fixed for service and filing of the Complainant and Commission's Statement of Particulars, the Respondent will be required to serve and file a Statement of Particulars that complies with Rules 6(1)(a), (b) and (c) (material facts; legal issues; relief sought).

Disclosure of Documents

9. Within two (2) weeks of the date fixed for service of the Commission File, the Complainant and the Commission will be required to provide the full documentary disclosure set out in Rules 6(1)(d) and (e) (non-privileged documents; privileged documents).

10. Within three (3) weeks of the date fixed for documentary disclosure by the Complainant and the Commission, the Respondent will be required to provide the full documentary disclosure set out in Rules 6(1)(d) and (e). (non-privileged documents; privileged documents).

Second Case Management Conference Call

11. At the Second Case Management Conference Call with the parties, dates for the hearing of the complaint will be fixed by the Tribunal. In addition, any outstanding issues requiring the Tribunal's intervention will be addressed.

Identification and Anticipated Testimony of Proposed Witnesses (Including Experts)

12. Within two (2) weeks of the date set for service of the Commission File, the Complainant and the Commission will be required to comply with Rule 6(1)(f) regarding the identification of witnesses (will-say statement). In addition, they will be required to indicate in writing whether they have elected to call an expert witness at the hearing of the inquiry, and in the affirmative:

- a. the issue in respect of which they intend to adduce expert opinion evidence; and
- b. the field or discipline of the intended witness' expertise.

13. Within three (3) weeks of the date fixed for the Complainant and the Commission to identify their witnesses, the Respondent will be required to comply with Rule 6(1)(f) regarding the identification of witnesses (will-say statement); In addition, it will be required to indicate in writing whether it has elected to call an expert witness at the hearing of the inquiry, and in the affirmative:

- a. the issue in respect of which it intends to adduce expert opinion evidence, and
- b. the field or discipline of the intended witness' expertise.

Expert Witness Reports

14. Within four (4) weeks of the date fixed for service and filing of the Complainant's and the Commission's Statement of Particulars, the Complainant and the Commission will be required to serve and file any expert report in accordance with Rule 6(3)(a).

15. Within four (4) weeks of the date fixed for the Complainant and the Commission to serve and file any expert report, the Respondent will be required to serve and file any expert report in accordance with Rule 6(3)(a).

FIRST CASE MANAGEMENT CONFERENCE CALL OR UNSUCCESSFUL MEDIATION

| # of weeks from 1st Case Management Conf. Call OR Unsuccessful Mediation | PARTY | OBLIGATION | RULE |
|--|----------------------|---|--|
| Week 3 | CHRC | Discloses a copy of its file in relation to the complaint forming the subject of the inquiry | |
| Week 5 (2 weeks after CHRC file is provided) | CHRC and Complainant | Statement of Particulars (material facts; legal issues; relief sought); Election to call expert witness and general subject of proposed testimony Identify Documents (non-privileged; privileged) Identify non-expert witnesses and provide will-say | 6(1)(a), (b), (c) 6(1)(d), (e) 6(1)(f) |
| Week 8 (3 weeks after CHRC / complainant serve | Respondent | Statement of Particulars (material facts; legal issues; relief sought); Election to call expert witness and | 6(1)(a), (b), (c) |

| | | | |
|---|-------------------------------------|--|----------------------------|
| particulars and disclosure) | | general subject of proposed testimony Identify Documents (non-privileged; privileged) Identify non-expert witnesses and provide will-say | 6(1)(d), (e) 6(1)(f) |
| Week 8 (on the day following respondent's disclosure date) | CHRC, Complainant and Respondent | SECOND CASE MANAGEMENT CONFERENCE CALL Identification of outstanding issues requiring the Tribunal's intervention. | 5 |
| Week 9 (1 week after respondent serves particulars and disclosure) | CHRC and Complainant | Expert Witness Report | 6(3)(a) |
| Week 13 (4 weeks after CHRC / complainant serve expert report) | Respondent | Expert Witness Report | 6(3)(a) |

DATED AT OTTAWA, THIS 16th DAY OF JUNE 2009