



February 8, 2013

By e-mail

(See Distribution List)

Dear Parties,

**Re: First Nations Child and Family Caring Society et al. v. Attorney General of Canada
Tribunal File: T1340/7008**

On September 26, 2012, parties set aside some dates for the hearing commencing February 25, 2013. During the last CMCC, held January 22, 2013, parties did not indicate any concern to proceed on February 25, 2013 and, on the contrary, parties were moving forward with the last stages of the disclosure to be ready to proceed as planned. Shortly after the CMCC, a request to the Tribunal to issue a subpoena was made by the Commission. The subpoena is requesting Dr. Blackstock's presence before the Tribunal for the period of February 25 to March 1st 2013.

On February 1st, 2013, the Respondent made a request for an adjournment by way of a letter. The Respondent indicated that the AGC's appeal of the April 2012 Federal Court's judgment will be heard on March 6, 2013. The Respondent contends that parties discussed last year whether hearing dates in the week preceding the appeal should be adjourned. The Respondent suggests it is a good idea to adjourn, given the current schedule and the opportunity to make this time up if there need be, and asks the parties to consider this proposal. The Respondent also suggests that this item should be discussed at the next CMCC scheduled on February 19, 2013.

The Caring Society replied the same day to the Respondent's letter to oppose the adjournment request. The Caring Society contends that in the present case, the complaint originated in 2007, over five years ago, and that no further delays would be justified absent exceptional circumstances involving serious risks to natural justice. The Caring Society also notes that the Respondent has brought this request many times before the Tribunal, in different forms and ways. In the circumstances, it is akin to a request for a stay of proceedings. A formal motion for a stay was never brought. The Caring Society contends it would be preferable if this matter could be resolved before the next Case Management Conference Call. The Tribunal received a letter from the Commission this morning, opposing the Respondent's request to adjourn the hearing. The Commission supports the position taken by the Caring Society. The Tribunal did not receive submissions from the AFN, COO or Amnesty International in response to the Respondent's request to adjourn the hearing week of February 25-March 1st, 2013.

The Panel agrees this matter needs to be resolved expeditiously and given the upcoming hearing in about two weeks; the Panel will not seek further submissions from the parties in this matter.

Therefore the Panel rules:

In accordance with the reasoning in *Greg Morrison Blain v. Royal Canadian Mounted Police*, 2012 CHRT 13, and pursuant to section 48.9 (1) of the CHRA, the Panel denies the Respondent's request to adjourn the hearing week of February 25-March 1st and will not discuss this further at the next CMCC.

The Respondent has not raised any natural justice or procedural fairness concerns to support its request for an adjournment. It would be unfair to the Complainants to adjourn the hearing at this stage since they are ready to proceed on February 25, 2013. The Federal Court of Appeal's hearing was not unforeseeable and, a formal motion for a stay was never brought by the Respondent. The Respondent also reserved its right to present its opening statement at a later stage of the hearing before presenting its evidence. There are four days between the last scheduled day of hearing before the Tribunal and the Court of Appeal's hearing therefore, there is no conflict of hearing schedules.

The hearing will proceed as planned.

If you have any questions or concerns, please do not hesitate to contact me at (613) 947-1151 or by email at dragisa.adzic@chrt-tcdp.gc.ca.

Yours truly,



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