



Federal Court Decision on Jordan's Principle: *Powless v. Canada* Information Sheet

On July 10, 2025, the Federal Court released its decision in [*Powless v. Canada \(Attorney General\)*](#), 2025 FC 1227. On August 11, 2025, Canada filed a [Notice of Appeal](#) to the Federal Court of Appeal, seeking to overturn this decision.

The Federal Court quashed Indigenous Services Canada's (ISC) decision to deny, on appeal, a First Nations grandmother's Jordan's Principle request, made on behalf of her two granddaughters in her care. After medical evidence showed the children's asthma and health were being profoundly worsened by the presence of mould in their home, the Grandmother placed a request to Jordan's Principle for mould remediation and temporary housing. After quashing ISC's denial, the Federal Court returned the matter to ISC for redetermination in accordance with its reasons.

This case affirms that:

- Jordan's Principle requests must be assessed through a **substantive equality lens**, considering the distinct circumstances and disadvantages of First Nations children, and the **best interests and health of the child**;
- The **amount of funding requested** is not a valid reason to deny a Jordan's Principle request; and
- It is unreasonable for ISC to deny Jordan's Principle requests due to "**comparable services**," "**ameliorative programs**" or "**no existing government services**."

This ruling reinforces that Jordan's Principle is to be interpreted broadly, rather than narrowly. Jordan's Principle requests require **individualized and child-focused determinations** that are in keeping with the **substantive equality rights** and the **best interests of children**, rather than rigid interpretations, including on the basis of comparable services or programs. The ruling is a significant step forward in holding the federal government accountable to its legal responsibilities arising from the Canadian Human Rights Tribunal orders, including orders for Canada to stop its discrimination against First Nations children and ensuring First Nations children have substantively equal access to services and supports that meet their needs.

This information sheet contains general information about the *Powless* decision and appeal and is ***not legal advice***.

Impacts

Families whose Jordan's Principle requests were denied for reasons similar to those in the *Powless* case, may have grounds to challenge the decision. If you have received a denial that references ameliorative or special programs per s.15(2) of *The Canadian Charter of Rights and Freedoms* (the Charter) or s.16(1) of the *Canadian Human Rights Act* (CHRA), or it is clear that ISC did not assess the request based on the child's needs, the right to substantive equality, cultural appropriate services, and the best interests of the child, you may wish to ask for a reconsideration or re-review of the request and point to the *Powless* decision.

We extend our heartfelt gratitude to the family who bravely brought this case forward. Their courage and strength paved the way to this important precedent that will help protect and uplift so many other First Nations children and families across the country.

Federal Court's Decision

The Federal Court found ISC's decision unreasonable because:

- ISC treated the matter only as a "housing remediation" issue and ignored the evidence about serious health risks to the children, including medical evidence linking mould exposure to their respiratory problems;
- ISC pointed to other housing programs as sufficient, despite clear evidence that these programs were inaccessible and inadequate in meeting the children's needs;
- ISC relied on the \$200,000 cost estimate to deny the request, but provided no evidence that Jordan's Principle allows for financial caps, nor that the estimate was unreasonable or inflated; and

- Instead of assessing the request in keeping with the Tribunal's orders on Jordan's Principle (substantive equality, best interests of the child and culturally relevant service provision), ISC took the unreasonable position that Jordan's Principle does not apply as there is no existing government service.

The Court held that ISC applied an unduly narrow and inconsistent interpretation of Jordan's Principle by ignoring its underlying purpose: to ensure that First Nations children can access services that meet their needs while taking their health, best interests, and historical disadvantage into account. Ultimately, the Federal Court quashed ISC's denial and returned the request to ISC for reconsideration.

Canada's Appeal of the Federal Court's Decision

On August 11, 2025, Canada appealed the Federal Court's decision to the Federal Court of Appeal, asking the Federal Court of Appeal to overturn the Federal Court's ruling and reinstate ISC's denial.

In its Notice of Appeal, Canada argued that the Federal Court misapplied the legal test for substantive equality and departed from the Supreme Court of Canada's previous rulings regarding substantive equality, related to section 15 of the *Canadian Charter of Rights and Freedoms*, by requiring consideration of children's health, best interests, and historical disadvantage, regardless of whether a comparable public service exists. Canada maintains that Jordan's Principle is meant to ensure equal access to existing government services, not to create new ones. Canada also argued that ISC did consider the children's health needs, that the reliance on ameliorative programs, like the On-Reserve Residential Rehabilitation Assistance Program (RRAP) was reasonable, and that the Federal Court erred in suggesting the denial was based on the cost of remediation.

Importantly, the Federal Court's decision stands until it is overturned by the Federal Court of Appeal.

Background

Ms. Powless, a First Nations grandmother, is the caregiver for her two young granddaughters, both of whom suffer from asthma. The family's on-reserve, multigenerational home was contaminated with mould, worsening the children's health and causing frequent coughing, exercise intolerance, and school

absences.

In June 2022, Ms. Powless first applied for funding under Jordan's Principle to remediate the mould and cover temporary housing during repairs. She noted in her request that the mould exposure and improper housing had a detrimental impact on her granddaughters' health and provided contractor estimates for remediation costs.

In January 2024, ISC denied the request, stating that major renovations fall outside the scope of Jordan's Principle and that Ms. Powless had not sufficiently linked the requested services to the children's needs. Ms. Powless appealed the decision but was once again denied by ISC. Following the second denial, Ms. Powless sought judicial review; this process was discontinued when the parties agreed that ISC would reconsider the request.

In September of 2024, ISC denied the request, concluding that Jordan's Principle does not apply to mould remediation because it is not an existing government service. Ms. Powless appealed once more, this time also requesting funding for advocacy costs.

In November 2024, the Expert External Review Committee reviewed the appeal. While acknowledging the urgency of the children's health situation, the Committee upheld the denial. It found that the mould remediation request amounted to a major capital renovation beyond Jordan's Principle's scope. The Committee strongly advised the family to relocate, given the unsafe housing conditions, but denied the requested funding.

That same day, ISC's Senior Assistant Deputy Minister (ADM), as final decision-maker, issued a denial letter. Relying in part on the Committee's report, the Senior ADM found that Jordan's Principle did not apply because the request was not tied to existing government services and because Jordan's Principle does not extend to capital renovations. ISC also denied Ms. Powless' request for appeal advocacy costs.

Ms. Powless sought judicial review of this decision. On July 10, 2025, the Federal Court ruled in her favour.

For more information on Jordan's Principle, including information sheets and the latest updates on the case before the Tribunal, please visit jordansprinciple.ca.