



Information Sheet

The Canadian Human Rights Tribunal on First Nations Child Welfare (Docket: T1340/7708)

January 2016

Allegation before the Canadian Human Rights Tribunal

In February of 2007 the First Nations Child and Family Caring Society (Caring Society) and the Assembly of First Nations (AFN) filed a complaint alleging that the Department of Indian and Northern Affairs' provision of First Nations child and family services was flawed, inequitable and thus discriminatory under the *Canadian Human Rights Act*.

The Canadian Human Rights Tribunal (www.chrt-tcdp.gc.ca)

The Tribunal adjudicates complaints filed under the *Canadian Human Rights Act*. The Tribunal has the authority to make a legal determination of discrimination and order remedies.

Parties to the Proceeding

- Complainants:** First Nations Child and Family Caring Society & Assembly of First Nations Canadian Human Rights
- Commission:** Commission (representing the public interest)
- Respondent:** Attorney General of Canada (representing the Minister of Indian and Northern Affairs)
- Interested Parties:** Chiefs of Ontario & Amnesty International

Case History

Indian and Northern Affairs Canada (INAC) requires First Nations child and family service agencies to operate pursuant to provincial/territorial child welfare laws. The federal government controls the nature and extent of child welfare delivery on reserve through a variety of policies, programs and funding regimes. Internal

INAC reviews and Auditor General of Canada reports (2008, 2011) have repeatedly found INAC's flawed and inequitable approaches contribute to growing numbers of First Nations children in child welfare care. The complaint was filed in the best interests of First Nations children after INAC failed to implement two solutions it jointly developed with First Nations.

The Federal Government Response to the Case

The Federal Government spent over 3 million dollars in its unsuccessful efforts to get the case dismissed on technical grounds arguing that child welfare services delivered to First Nations should not be compared to those delivered to all other Canadians (known as the comparator argument) and that funding is not a service pursuant to the *Canadian Human Rights Act* (known as the service argument).

Hearing Evidence

The Tribunal began hearing the evidence on February 25, 2013 and heard from 25 witnesses (18 for the Commission and the complainants and 7 for the Attorney General). The last witness testified on May 30, 2014 and approximately 500 documents were filed as evidence. This case will set an important precedent for addressing inequitable Federal Government service delivery to First Nations peoples in other areas such as education, health, housing, and water.

Next steps and more information

The final arguments for the case took place on October 20-24, 2014. The decision will be released January 26, 2016 and will be posted on the CHRT's website: <http://decisions.chrt-tcdp.gc.ca/chrt-tcdp/en/nav.do>. Each party's written factum and reply can be accessed and read online through www.fnwitness.ca. For more information please email info@fncaringsociety.com

For more information on the case go to

www.fnwitness.ca or contact info@fncaringsociety.com