

Court File No.

FEDERAL COURT

BETWEEN:

ATTORNEY GENERAL OF CANADA

APPLICANT

-and-

**FIRST NATIONS CHILD AND FAMILY CARING SOCIETY OF CANADA,
ASSEMBLY OF FIRST NATIONS, CANADIAN HUMAN RIGHTS
COMMISSION, CHIEFS OF ONTARIO, AMNESTY INTERNATIONAL
and NISHNAWBE ASKI NATION**

RESPONDENTS

NOTICE OF APPLICATION FOR JUDICIAL REVIEW

TO THE RESPONDENTS:

A PROCEEDING HAS BEEN COMMENCED by the Applicant. The relief claimed by the Applicant appears on the following page.

THIS APPLICATION will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court orders otherwise, the place of hearing will be as requested by the Applicant. The Applicant requests that this application be heard at Ottawa, Ontario.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or a solicitor acting for you must prepare a notice of appearance in Form 305 prescribed by the *Federal Courts Rules* and serve it on the Applicant's solicitor, or where the Applicant is self-represented, on the Applicant, **WITHIN 10 DAYS** after being served with this notice of application.

Copies of the *Federal Courts Rules* information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

**IF YOU FAIL TO OPPOSE THIS APPLICATION, JUDGMENT MAY BE GIVEN
IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.**

September 24, 2021

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APPLICATION

This is an application for judicial review in respect of the Canadian Human Rights Tribunal's ("Tribunal") decision in file no. T1340/7008, communicated in a letter dated August 26, 2021 with reasons to follow, concerning funding for capital assets and Band Representatives and prevention services as part of the remedies regarding the discrimination found in 2016 CHRT 2.

At the date of filing this Notice of Application, the Tribunal has not issued its final reasons for its decision. The Applicant is filing this Notice of Application at this time in order to preserve its right to judicially review the decision, given the 30 day statutory deadline to bring an application for judicial review in subsection 18.1(2) of the *Federal Courts Act*.

Given the interim nature of the decision in question, additional specific grounds for the application will be provided once the final decision of the Tribunal is released.

Based on the present interim decision, the Applicant makes application for:

1. An order setting aside the Tribunal's decision only insofar as it requires the Applicant to:
 - a) fund the purchase and construction of capital assets at actual costs in a manner that is broad and vague and beyond the jurisdiction of the Tribunal to order;
 - b) fund capital needs and feasibility studies in a manner that is broad and vague and beyond the jurisdiction of the Tribunal to order;
 - c) fund actual costs for Band Representatives and prevention services on-reserve in a manner that is broad and vague and beyond the jurisdiction of the Tribunal to order;and dismissing those aspects of the underlying motion for such relief.
2. In the alternative, an order setting aside the Tribunal's decision, as above, and referring the matter back to the Tribunal for determination in accordance with the directions of this Court;
3. Such further and other relief as this Honourable Court may deem appropriate and just in the circumstances.

The grounds for the application are that the Tribunal erred in:

1. Making a decision that is overly broad and vague in its application;
2. Ordering Canada to make such funding decisions in a manner that is beyond the jurisdiction of the Tribunal and that the Tribunal erroneously relied on factual material, erroneously interpreted provisions of the *Canadian Human Rights Act* and the *Financial Administration Act*, or were otherwise unreasonable, and thus there are permissible grounds for review under s. 18.1 of the *Federal Courts Act*; and
3. Such further and other grounds as counsel may advise and this Honourable Court permit.

This application will be supported by the following material:

1. The Certified Tribunal Record.
2. Such further and other materials as counsel may advise and this Honourable Court should permit.

The Applicant requests that the Canadian Human Rights Tribunal send a certified copy of the record upon which its decision was based to the Applicant and to the Registry within 20 days.

The Applicant requests this matter be heard in Ottawa, Ontario.

DATED AT OTTAWA, ONTARIO, the 24th day of September, 2021.



ATTORNEY GENERAL OF CANADA

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