

**Canadian Human
Rights Tribunal**



**Tribunal canadien
des droits de la personne**

Citation: 2022 CHRT 14

Date: April 26, 2022

File No.: T2248/0318

Between:

Ryan Letnes

Complainant

- and -

Canadian Human Rights Commission

Commission

- and -

Royal Canadian Mounted Police

Respondent

Ruling

Member: Marie Langlois

I. Reasons

[1] Considering the motion filed by the Complainant on March 28, 2022;

[2] Considering that by that motion the Complainant is asking for the disclosure of the title, author and recipients (including carbon copies) of the 749 documents identified in the Respondent's list of privileged documents;

[3] Considering that the Canadian Human Rights Commission, by its response of April 13, 2022, agrees with the motion brought by the Complainant;

[4] Considering that the Respondent, by its response of April 13, 2022, consents to provide a list of privileged documents that expressly identifies the title, author and addressee for each document;

[5] Considering that the Respondent, by its response of April 13, 2022, objects to the Complainant's request to disclose the name of the persons who were carbon copied to the correspondence;

[6] Considering that the Respondent, by its response of April 13, 2022, indicates that he can provide a revised list of privileged documents by April 27, 2022;

[7] Considering that the Complainant, by his reply of April 14, 2022, foregoes the disclosure of the carbon copied recipients to solely solicitor/client privilege;

[8] Considering that the Complainant, by his reply of April 14, 2022, maintains his demand for the carbon copied recipients of the litigation privilege records or the blended solicitor/client and litigation privilege records identified by the Respondent in its list of 749 privileged documents;

[9] Considering that as mentioned in *Hughes v. Transport Canada*, 2012 CHRT 26, para. 60, the issue is a pragmatic one that calls for common sense and a pragmatic approach;

[10] Considering that as in *Hughes*, I am not either aware of a case where a Court or a Tribunal has refused a motion to disclose the name of carbon copied recipients to a litigation privilege document or a blended solicitor/client and litigation privilege document;

[11] Considering that the Respondent has not provided any indication of how a recipient of an email identified in the “TO” line is different than a recipient of an email in the “CC” line and it is not obvious that the difference is material with modern email communications;

[12] Considering that in *Shaw v. Bell Canada*, 2019 CHRT 24 (*Shaw*), the Tribunal ordered Bell Canada to disclose the documents requested by the Canadian Human Rights Commission that included the name of the recipient(s);

[13] Considering that the present Tribunal considers that the order in *Shaw* includes the carbon copied recipients;

[14] Considering that case law in other jurisdictions such as in *Phillip v. Deloitte*, 2019 ONSC 7300, para. 27 where the Superior Court of Ontario considered that Deloitte had respected its obligation by providing the document’s title, date, author, recipient, carbon copies and privilege type;

II. Order

[15] For those reasons, the Tribunal:

- Orders the Respondent to provide a revised list of privileged documents including the title, date, author, recipient for the solicitor/client privilege documents;
- Orders the Respondent to provide a revised list of privileged documents including the title, date, author, recipient, carbon copied for the documents with a litigation privilege and a blended solicitor/client and litigation privilege;
- Orders the Respondent to provide these lists at the latest May 6, 2022, or at a later date with the authorization of the Tribunal.

Signed by

Marie Langlois
Tribunal Member

Ottawa, Ontario
April 26, 2022

Canadian Human Rights Tribunal

Parties of Record

Tribunal File: T2248/0318

Style of Cause: Ryan Letnes v. Royal Canadian Mounted Police

Ruling of the Tribunal Dated: April 26, 2022

Motion dealt with in writing without appearance of parties

Written representations by:

Ryan Letnes, the Complainant

Christine Singh and Aby Diagne, for the Canadian Human Rights Commission

Graham Stark , for the Respondent