

**Canadian Human
Rights Tribunal**



**Tribunal canadien
des droits de la personne**

Citation: 2024 CHRT 13

Date: March 13, 2024

File No.: T2623/18020

Between:

Michael Farrell

Complainant

- and -

Canadian Human Rights Commission

Commission

- and -

Correctional Service Canada

Respondent

Ruling

Member: Daniel Simonian

I. The Procedural Background

[1] This is a ruling on a request made jointly by the Complainant and the Respondent that the Tribunal hold the proceedings in this matter in abeyance pending the conclusion of a related civil action.

[2] On March 12, 2019, Michael Farrell, the Complainant, filed a complaint with the Canadian Human Rights Commission (the “Commission”) in which he alleges that Correctional Service Canada, the Respondent, discriminated against him on the basis of disability in the provision of a service, contrary to section 5 of the *Canadian Human Rights Act* (the “Act”). The Complainant sought remedies relating to his personal case as well as to systemic issues. He claims that the Respondent does not provide adequate and appropriate health care services to federally incarcerated inmates, which is indicative of systemic discrimination against inmates with addiction-related issues.

[3] On December 31, 2020, the Commission referred the complaint to the Tribunal for inquiry, pursuant to subsection 49(1) of the *Act*. The Commission also requested that the Tribunal institute a single inquiry into all complaints of similar fact and law involving the Respondent, pursuant to subsection 40(4) of the *Act*. On March 17, 2021, the Complainant consented to the inquiry into his complaint being held jointly with inquiries into other complaints against the Respondent.

[4] The Commission is fully participating in the Tribunal’s proceedings.

[5] On December 19, 2023, the Tribunal informed the parties that the complaint would be moving forward towards a hearing, and it would set deadlines accordingly for filing Statements of Particulars, disclosure and list of witnesses.

[6] On December 22, 2023, the Complainant and the Respondent filed a joint motion requesting that the complaint be put in abeyance pending the conclusion of a related civil action before the Ontario Superior Court (the “joint request”). The parties submitted that abeyance is warranted because they have come to an agreement on the systemic remedies and the only remaining issue is the monetary claim. The parties stated that resolving the

monetary claim via the civil action is in the interests of justice, expediency, and efficiency. They note that the civil claim is further along and moving forward promptly. Placing the human rights complaint in abeyance would prevent unnecessary duplication and could ultimately avoid the need for the Tribunal to spend resources on hearing this matter, should it be fully resolved through the civil claim.

[7] On January 4, 2024, the Commission consented to the complaint being put in abeyance pending the conclusion of the related civil action. The Commission subscribed to the reasoning set out in the joint request.

II. Analysis

[8] Pursuant to section 48.9(1) of the *Act*, the Tribunal has an obligation to act informally and expeditiously, in accordance with the principles of natural justice and the rules of procedure. Rule 26(3)(d) of the *Canadian Human Rights Tribunal's Rules of Procedure, 2021*, SOR/2021-137, provides that the Tribunal may dispose of a motion for adjournment as it considers necessary.

[9] A stay of proceedings should only be granted in exceptional circumstances (*Baillie et al. v. Air Canada and Air Canada Pilots Association*, [2012 CHRT 6](#) at para 22; *Canadian Association of Elizabeth Fry Societies and Acoby v. Correctional Service of Canada*, [2019 CHRT 30](#) at para 14). The Tribunal must consider whether the interests of justice support a delay in the proceedings, depending on the circumstances of each case. The Tribunal has stated that it should proceed with:

“a broad, case by case, reasonable and flexible assessment of factors relevant to stay requests including, but not limited to natural justice and principles of procedural fairness, irreparable harm, the balance of convenience between the parties, and the public’s interest in dealing with human rights complaints expeditiously” (*Egan v. Canada Revenue Agency*, [2018 CHRT 29](#) at para.8).

[10] In this case, allowing an adjournment is in the interest of efficiency as it would save the Tribunal and the parties time and resources. The Complainant has indicated that he wishes to pursue the civil action whether or not his human rights complaint is put into abeyance. Accordingly, continuing with the proceedings before the Tribunal is likely lead to

unnecessary duplication. Moreover, since the parties have already reached an agreement on the systemic remedies relevant to the complaint, attenuating the impact of public interest considerations. With only the monetary claim left to be resolved, allowing for an abeyance in the human rights complaint is in the interests of justice. Waiting for the outcome of the civil action—which is further along in the process—is beneficial since its resolution may ultimately close the matter pending before the Tribunal.

[11] I therefore accept that this is one of the exceptional cases in which an adjournment is justified, notably when considering the early stage of the Tribunal’s proceedings, procedural fairness in overlapping jurisdictions, the expressed convenience to the parties, and the importance of conserving the Tribunal’s limited resources (see *Letnes v. Royal Canadian Mounted Police*, [2022 CHRT 32](#) at paras 23-24).

III. Order

[12] The joint request is granted. This case is adjourned pending the outcome of the related civil claim.

Signed by

Daniel Simonian
Tribunal Member

Ottawa, Ontario
March 13, 2024

Canadian Human Rights Tribunal

Parties of Record

Tribunal File: T2623/18020

Style of Cause: Michael Farrell v. Correctional Service Canada

Ruling of the Tribunal Dated: March 13, 2024

Kent Elson, for the Complainant

Geneviève Colverson, for the Canadian Human Rights Commission

Tengteng Gai, for the Respondent