

**Canadian Human
Rights Tribunal**



**Tribunal canadien
des droits de la personne**

Citation: 2025 CHRT 21

Date: March 20, 2025

File No.: T2251/0618

Between:

**Gilbert Dominique (on behalf of the members of the Pekuakamiulnuatsh First
Nation)**

Complainant

- and -

Canadian Human Rights Commission

Commission

- and -

Public Safety Canada

Respondent

Ruling

Member: Jo-Anne Pickel

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I. OVERVIEW

[1] These are my reasons for dismissing the motion filed by Gilbert Dominique, Chief of the Pekuakamiulnuatsh First Nation, seeking reimbursement for expert fees required to conduct an evaluation of the public security needs of the Pekuakamiulnuatsh First Nation.

[2] Mr. Dominique, the Complainant, filed a complaint under the *Canadian Human Rights Act*, R.S.C., 1985, c. H-6 (CHRA) on behalf of the Pekuakamiulnuatsh First Nation. He alleged that Public Safety Canada, the Respondent, differentiated adversely in the provision of police services contrary to the CHRA. The Tribunal agreed to bifurcate this proceeding, separating the issue of liability from the issue of remedy.

[3] The Tribunal ended up determining that the complaint was substantiated (*Dominique (on behalf of the members of the Pekuakamiulnuatsh First Nation) v. Public Safety Canada*, 2022 CHRT 4). Its decision has been upheld by both the Federal Court (*Canada (Attorney General) v. Pekuakamiulnuatsh First Nation*, 2023 FC 267) and the Federal Court of Appeal (*Canada (Procureur général) c. Première Nation des Pekuakamiulnuatsh*, 2025 CAF 24). The Tribunal is now in the process of determining the appropriate remedy in this case. It is in this context that the Complainant is seeking the reimbursement of expert fees required by the firm of PriceWaterhouseCoopers (PwC) to conduct a needs assessment of the public security requirements of the Pekuakamiulnuatsh First Nation.

II. DECISION

[4] I have already informed the parties that I have dismissed the Complainant's motion. These are my full reasons for doing so. As detailed below, even if the Complainant sought to characterize the expert fees as a form of remedy, they are in effect legal costs. The applicable case law is clear that the Tribunal does not have the power to order the reimbursement of such costs.

III. ISSUES

[5] After reviewing the parties' submissions, I have narrowed down the issues that I must decide as follows:

1. Does the Tribunal have the power to order the reimbursement of the expert fees associated with the needs assessment?
2. Would such an order be premature in any event?

IV. ANALYSIS

A. **Issue 1: Does the Tribunal have the power to order the reimbursement of the expert fees associated with the needs assessment?**

[6] No. The Tribunal does not have the power to order the Respondent to reimburse the Complainant for the expert fees that were, or will be, incurred to carry out the needs assessment.

(i) The expert fees are legal costs

[7] The parties disagreed over the proper characterization of the expert fees. The Complainant characterized them as a type of remedy which he argues the Tribunal should award under subsection 53(2)(b) of the CHRA. Meanwhile, the Respondent characterizes them as legal costs which the Tribunal does not have the power to award. I agree with the Respondent that the expert fees are properly characterized as legal costs.

[8] The Complainant's central argument is that the Tribunal noted in its liability decision that the First Nations Policing Program requires the federal government, the provincial governments and First Nations to determine the level of funding for police services based on an evaluation of each First Nation's particular funding needs. However, the Tribunal found that the federal government has provided funding to First Nations on the basis of a funding envelope that it had neglected for years before injecting more significant amounts into the program from 2018 onwards. The Complainant argues that the Respondent still has not conducted a needs assessment of the policing needs of the Pekuakamiulnuatsh First

Nation. Therefore, he takes the position that the Tribunal should order the Respondent to reimburse him for the expert fees the First Nation required to carry out its own assessment of its policing needs.

[9] By contrast, the Respondent argues that the expert fees are in fact legal costs payable for evidence that the Complainant will be relying upon in the current remedies portion of this proceeding.

[10] The Commission appears to have adopted the characterization of the fees put forward by the Complainant. It argues that the Complainant should not have to wait until the end of the remedies phase of this proceeding to obtain a remedy to stop ongoing discrimination.

[11] I agree with the Respondent's position.

[12] As noted above, the Tribunal bifurcated this proceeding so that it would only make a determination of the appropriate remedy if the complaint was substantiated. The Tribunal did find the complaint was substantiated. Therefore, in early 2024, the Tribunal began its case management of the remedy portion of this proceeding. In September 2024, the Complainant received a mission letter from PwC whose services the Complainant had already engaged. The PwC mission letter set out PwC's understanding of its mission based on its discussions with the Complainant. PwC's mission involves providing consultation services to produce a report that will be presented to the Tribunal during the current remedies phase of this proceeding. It also involves providing an expert witness to testify before the Tribunal in the remedies hearing. In addition, PwC will be acting as an external consultant to support the Complainant throughout its negotiations with the government for the renewal of its police services funding. In its correspondence, PwC estimated that its fees for the services requested by the Complainant would amount to \$208,430, plus all other applicable fees, expenses and taxes. This is the amount that the Complainant is asking the Tribunal to order the Respondent to reimburse.

[13] In my view, the letter from PwC makes clear that the expert fees being sought by the Complainant are being paid to prepare a report that the Complainant will tender into evidence and to pay a representative of PwC to act as an expert witness at the remedy

hearing. These are classic examples of legal costs that are awarded by courts (see, for example, Article 339 of the Quebec *Code of Civil Procedure* and *Bauer Hockey Ltd. v. Sport Maska Inc.*, 2020 CF 862 applying subsection 400(1) of the *Federal Courts Rules*, SOR/98-106). It is not disputed by any party in this proceeding that the Tribunal lacks the power to order the payment of legal costs (*Canada (Canadian Human Rights Commission) v. Canada (Attorney General)*, 2011 SCC 53).

B. Issue 2: Would such an order be premature in any event?

[14] Even if I had accepted the Complainant's characterization of the expert fees as a remedy within the meaning of subsection 53(2)(b) of the CHRA, I would not have granted his motion. The Tribunal is currently case managing the remedial phase of this proceeding and attempting to move the parties as quickly as possible to a hearing on the issue of remedy. In my view, it would be premature to make any remedial orders before having heard full evidence and argument in support of such orders.

V. ORDER

[15] For the above reasons, the motion is dismissed.

Signed by

Jo-Anne Pickel
Tribunal Member

Ottawa, Ontario
March 20, 2025

Canadian Human Rights Tribunal

Parties of Record

File No.: T2251/0618

Style of Cause: Gilbert Dominique v. Public Safety Canada

Ruling of the Tribunal Dated: March 20, 2025

Motion dealt with in writing without appearance of parties

Written representations by:

Benoît Amyot and Léonie Boutin, for the Complainant

Julie Hudson, for the Canadian Human Rights Commission

François Joyal, Pavol Janura and Marie-Eve Robillard, for the Respondent