

**Canadian Human  
Rights Tribunal**



**Tribunal canadien  
des droits de la personne**

**Citation:** 2025 CHRT 25

**Date:** April 1, 2025

**File Nos.:** HR-DP-2939-23 & HR-DP-2940-23

**Between:**

**Allvy Goes**

**Complainant**

**- and -**

**Canadian Human Rights Commission**

**Commission**

**- and -**

**Salt River First Nation**

**Respondent**

**Ruling**

**Member:** Gary Stein

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## **I. OVERVIEW**

[1] Allvy Goes is a former employee of Salt River First Nation (SRFN) in Fort Smith, Northwest Territories. He has filed two human rights complaints. Mr. Goes alleges that SRFN discriminated against him during his employment and then retaliated against him because he filed a human rights complaint. Both complaints allege that SRFN's actions affected Mr. Goes' health. SRFN denies that it discriminated or retaliated against Mr. Goes.

[2] Mr. Goes has disclosed his medical records to SRFN, but the records are redacted. Mr. Goes says that the redacted information is not relevant and that he should not have to disclose it. He asks the Tribunal to allow the redactions. He also requests a confidentiality order for the full medical record.

[3] SRFN says that the redacted information may be relevant and should be disclosed. It does not oppose the request for a confidentiality order.

## **II. DECISION**

[4] I allow the motion in part. This ruling lists the redactions that I allow and the redactions that must be removed.

[5] I restrict the individuals who may view Mr. Goes' medical records.

[6] I dismiss the request for a confidentiality order as premature. Mr. Goes may make a further request for a confidentiality order if the medical records are submitted as evidence in a hearing.

## **III. ISSUES**

[7] I must decide these issues:

- a. Should the redacted information in Mr. Goes' medical records be disclosed to SRFN and the Canadian Human Rights Commission (the "Commission")?

b. Should the Tribunal make a confidentiality order?

#### **IV. ANALYSIS**

[8] During the document disclosure stage of this case, Mr. Goes disclosed his medical records, with 45 redactions, to the other parties. The redactions include details about Mr. Goes' family matters, personal relationships, third-party information, medical issues and personal identifying information. Mr. Goes numbered the redactions and gave reasons for each of them. He also gave an unredacted version of the records to the Tribunal so that I could review the redacted information.

[9] Mr. Goes makes two requests: first, he asks the Tribunal to allow the redactions because, in his view, the redacted information is not relevant to this proceeding; second, Mr. Goes requests a confidentiality order for the entire medical record to protect his privacy.

##### **A. Should the redacted information in Mr. Goes' medical records be disclosed to SRFN and the Commission?**

[10] I allow the redaction of information that is not arguably relevant. The redactions of arguably relevant information must be removed, and the information must be disclosed to the parties.

##### **(i) The legal principles about the disclosure of documents**

[11] The Commission's submissions accurately describe the legal principles that apply to the disclosure of documents and the redaction of medical records. I also adopt the approach to disclosure from *K.L. v. Canada Post Corporation*, 2024 CHRT 126 [*K.L. v. Canada Post*], which draws upon longstanding principles set out in *Brickner v. Royal Canadian Mounted Police*, 2017 CHRT 28 [*Brickner*] and *Egan v. Canada Revenue Agency*, 2017 CHRT 33 [*Egan*]:

- a. Under the *Canadian Human Rights Act*, R.S.C., 1985, c. H-6 (the "Act"), all parties are treated fairly in the Tribunal's process. The Tribunal must give all parties a full and ample opportunity to present evidence and make representations (section 50(1) of the

Act). This includes the right to receive disclosure from the other parties prior to the hearing (*K.L. v. Canada Post* at para 10).

- b. The *Canadian Human Rights Tribunal Rules of Procedure*, 2021 SOR/2021-137 (the “Rules of Procedure”) require the parties to disclose, on an ongoing basis, all non-privileged documents in their possession that relate to a fact or issue that is raised in the complaint or to an order sought by any of the parties (Rules of Procedure, rules 18(1)(f), 19(1)(e), 20(1)(e), 23(1) and 24(1); *K.L. v. Canada Post* at para 11).
- c. In deciding whether to order a party to disclose certain documents, the Tribunal must consider whether the information at issue is arguably relevant to the complaint before the Tribunal (*K.L. v. Canada Post* at para 12, citing *Brickner* at para 5). Receiving all arguably relevant documents helps ensure that parties are aware of the case they are facing and can adequately prepare for the hearing (*K.L. v. Canada Post* at para 12, citing *Egan* at para 4).
- d. Arguable relevance is not a very high threshold, but a party seeking the production of documents must demonstrate that there is a rational connection between the document sought and a fact, issue or a remedy being sought in the inquiry. The parties’ Statements of Particulars serve as a guide for deciding whether a document is arguably relevant (*K.L. v. Canada Post* at para 13, citing *Brickner* at para 6).
- e. Even if the Tribunal orders documents to be produced at the pre-hearing stage, it does not necessarily mean they will be admitted as evidence at the hearing or given significant weight if they are admitted (*K.L. v. Canada Post* at para 15).

[12] A complainant has the right to privacy and confidentiality with respect to their medical records. These rights may cease, however, if a complainant puts their health in issue in a proceeding (*White v. Canadian Nuclear Laboratories*, 2020 CHRT 5 [*White*] at para 10; *Egan* at para 34).

[13] Disclosure must be balanced with privacy concerns. The Tribunal can take measures to protect privacy interests. It can limit disclosure or put conditions on it, such as restricting who may see the documents (*White* at para 10; *Egan* at paras 34 and 50; and *Yaffa v. Air Canada*, 2014 CHRT 22 at para 12).

## **(ii) The redactions**

[14] Mr. Goes redacted personal identifying information, including his date of birth, address, health care number and similar information. SRFN does not object. I allow these redactions, which are numbered 1, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 23, 24,

25, 28, 29, 30, 37, 41 and 44. There are two redactions with number 43; I allow redaction 43 in the health record dated July 16, 2021.

[15] The remaining redactions involve family matters, personal relationships, third-party information and medical issues. Mr. Goes says that all the redacted information is irrelevant to this proceeding. SRFN says, because Mr. Goes' health conditions are in issue, all the information in the medical record is relevant and should be disclosed, except for the names of third parties, so it can properly respond.

[16] Applying the principle that any information that is arguably relevant to a fact, an issue, or a request for a remedy in a party's Statement of Particulars must be disclosed to the other parties, I have reviewed the redactions and determined which of them are arguably relevant and which are not.

[17] Importantly, I highlight that the parties who receive information during this stage of the Tribunal's process must keep it confidential. The documents are protected by the parties' implied undertaking of confidentiality, which I also discuss below (*F.G. v. Canadian National Railway Company*, 2021 CHRT 40 [*F.G. v. CNR*] at para 34; *Constantinescu v. Correctional Service Canada*, 2020 CHRT 3 at paras 153–155).

[18] For the remaining redactions, I find as follows:

- a. Redaction 2: The information is arguably relevant. SRFN's Statement of Particulars and Mr. Goes' Reply have allegations about Mr. Goes' absence from the workplace. SRFN alleges that Mr. Goes was with his spouse during the work absences. Mr. Goes denies the allegations. Therefore, Mr. Goes' marital or relationship status is at issue, and the redacted information is arguably relevant to it.
- b. Redaction 3: The information is arguably relevant to Mr. Goes' claim that SRFN's actions affected his health or to SRFN's defense to that claim.
- c. Redactions 4, 5 and 6: The information is arguably relevant. It involves a health issue that is arguably related to the issues in the Statements of Particulars. In addition, the doctor's inclusion of the information in Redactions 4 and 5 immediately following the arguably relevant information in Redaction 3 might indicate an arguable connection between these statements. Redaction 6 is also arguably related to Redactions 4 and 5.

- d. Redaction 7: The information involves an arguably relevant health issue. It is arguably relevant to Mr. Goes' claim that SRFN's actions affected his health or to SRFN's defence to that claim.
- e. Redaction 21: The information is not arguably relevant. It only refers to circumstances involving Mr. Goes' parents and a sibling.
- f. Redaction 22: The information is arguably relevant. The inclusion of this note immediately after the statement that Mr. Goes is "clearly anxious and stressed" might indicate an arguable connection between the statements.
- g. Redaction 26: The information is not arguably relevant. It is identical to Redaction 21.
- h. Redaction 27: The information is arguably relevant. It is identical to Redaction 22.
- i. Redaction 31: It includes three sentences. They are arguably relevant in part:
  - i. Like Redaction 2, the first sentence, except for the words between quotation marks, is arguably relevant to Mr. Goes' marital or relationship status. It is also arguably relevant to Mr. Goes' claim that SRFN's actions affected his health or to SRFN's defence to that claim.
  - ii. In the first sentence, the words between quotation marks are not arguably relevant. They refer to an event affecting a third party.
  - iii. In the second sentence, the first 15 words are not arguably relevant. They refer to a third party's actions.
  - iv. The remaining seven words of the second sentence, and the entire third sentence, arguably relate to Mr. Goes' reaction to the information he received from the third party. The information is arguably relevant to his claim that SRFN's actions affected his health or to SRFN's defence to that claim.
- j. Redactions 32, 33 and 34: The information is arguably relevant to Mr. Goes' reaction to information he received, as described in Redaction 31. They are arguably relevant to Mr. Goes' claim that SRFN's actions affected his health or to SRFN's defence to that claim.
- k. Redactions 35 and 36: The information is not arguably relevant. They are test results related to the information in Redaction 34, but the results are not relevant.
- l. Redaction 38: The information is arguably relevant to Mr. Goes' claim that SRFN's actions affected his mental health or to SRFN's defence to that claim. The inclusion of this sentence immediately after the previous sentence, which refers to Mr. Goes being anxious about workplace issues, might indicate an arguable connection between the statements.
- m. Redaction 39: The information is arguably relevant to the issue of Mr. Goes' marital or relationship status, which is raised as an issue in the Statements of Particulars.

- n. Redaction 40: The information involves a medication. It is arguably relevant to Mr. Goes' claim that SRFN's actions affected his mental health or to SRFN's defence to this claim.
- o. Redaction 42: The information is arguably relevant to the issue of Mr. Goes' marital or relationship status, which is raised as an issue in the Statements of Particulars.
- p. Redaction 43 in the health record dated June 11, 2021: The information is arguably relevant to Mr. Goes' claim that SRFN's actions affected his health or to SRFN's defence to that claim.

### **(iii) Restriction on disclosure**

[19] To achieve a balance between the disclosure of Mr. Goes' records and the privacy of medical information, I am restricting who may view these records during the case management stage of this case. Mr. Goes' medical records shall only be viewed by counsel for SRFN and one representative that SRFN chooses to instruct counsel. SRFN shall inform the Tribunal and Mr. Goes of the representative that it chooses. The same conditions apply to the disclosure of the medical records to the Commission. SRFN and the Commission shall not disclose the records to anyone else without the Tribunal's prior permission.

## **B. Should the Tribunal make a confidentiality order?**

[20] A confidentiality order is not necessary at this stage of the case. We are still in the case management stage, where parties disclose arguably relevant documents to each other. We are not at the stage of preparing for a hearing. A confidentiality order is rarely necessary at this stage of the proceedings (*Cherette v. Air Canada*, 2024 CHRT 8 at paras 29–32).

[21] The parties are also bound by the implied undertaking of confidentiality. They may not disclose documents or use them for any purpose other than preparing this case (*F.G. v. CNR* at para 34, citing *Seedlings Life Science Ventures LLC v. Pfizer Canada Inc.*, 2018 FC 443 at para 3).



[22] Because the parties have not yet filed any disclosed documents with the Tribunal, they are not in the Tribunal's official record and the public cannot access them (Rules of Procedure, rule 47).

[23] A document only becomes public if a party files it as evidence in a Tribunal hearing. Mr. Goes may renew his request for a confidentiality order if that occurs. Until then, for this case, a confidentiality order is premature.

[24] I note that Mr. Goes filed a copy of his medical records as attachments to his motion materials. Therefore, out of an abundance of caution, I will order the Tribunal's Registrar to remove these documents from the Tribunal's records.

## **V. ORDER**

[25] I allow the following redactions to Mr. Goes' medical records: numbers 1, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 23, 24, 25, 26, 28, 29, 30, the words between the quotation marks in the first sentence of number 31, the first 15 words in the second sentence of number 31, numbers 35, 36, 37 and 41, number 43 in the July 16, 2021, health record and number 44.

[26] The following redactions shall be removed and the unredacted information disclosed to SRFN and the Commission: numbers 2, 3, 4, 5, 6, 7, 22, 27, the first sentence of number 31 but excluding the words between the quotation marks, the last seven words in the second sentence of number 31, the third sentence of number 31, numbers 32, 33, 34, 38, 39, 40 and 42, and number 43 in the June 11, 2021, health record.

[27] Only the following individuals may view the disclosed medical records:

- a. Counsel for SRFN and one representative that SRFN selects to instruct counsel.
- b. Counsel for the Commission and one representative that the Commission selects to instruct counsel.

[28] SRFN and the Commission shall not disclose Mr. Goes' medical records to any other individuals without the Tribunal's prior permission and notification to Mr. Goes.

[29] By April 21, 2025, SRFN and the Commission shall inform the Tribunal and Mr. Goes of the representative that they select to view the medical records.

[30] By April 24, 2025, Mr. Goes shall revise the medical records in accordance with this ruling and provide the revised records to SRFN and the Commission.

[31] The request for a confidentiality order is dismissed. Mr. Goes may make a further request for a confidentiality order if the medical records are to be introduced as evidence in a hearing.

[32] The Tribunal Registrar shall remove Mr. Goes' medical records from the motion materials in the Tribunal's records.

*Signed by*

Gary Stein,  
Tribunal Member

Ottawa, Ontario  
April 1, 2025

## **Canadian Human Rights Tribunal**

### **Parties of Record**

**File Nos.:** HR-DP-2939-23 & HR-DP-2940-23

**Style of Cause:** Allvy Goes v. Salt River First Nation

**Ruling of the Tribunal Dated:** April 1, 2025

**Motion dealt with in writing without appearance of parties**

**Written representations by:**

Allvy Goes, Self-represented

Laure Prévost, for the Canadian Human Rights Commission

Glenn K. Epp and Inez Agovic, for the Respondent