

**Canadian Human
Rights Tribunal**



**Tribunal canadien
des droits de la personne**

Citation: 2025 CHRT 28

Date: April 10, 2025

File No.: T2664/4021

Between:

K.L.

Complainant

- and -

Canadian Human Rights Commission

Commission

- and -

Canada Post Corporation

Respondent

- and -

Safe Home-Safe Work Coalition

Interested person

Ruling

Member: Colleen Harrington

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I. OVERVIEW

[1] The Safe Home-Safe Work Coalition has asked to be recognized as an interested person in respect of the inquiry into the complaint of K.L. (Complainant) against the Respondent, Canada Post Corporation (Canada Post), pursuant to Rules 26 and 27 of the *Canadian Human Rights Tribunal Rules of Procedure, 2021* SOR/2021-137 [Rules].

[2] K.L. was employed by Canada Post as a temporary Relief Supervisor at one of its Mail Processing Plants (the MPP) for approximately four months, from December of 2018 to April of 2019. K.L. alleges that she experienced discrimination in employment on the basis of family status, sex and disability (or perceived disability), contrary to section 7 of the *Canadian Human Rights Act*, R.S.C. 1985, c.H-6 [CHRA]. Specifically, K.L. alleges that she was treated adversely through shift scheduling and by being denied training opportunities, and that her employment was terminated. She says this adverse treatment and termination occurred after she disclosed that she was a victim of intimate partner violence and likely had related post-traumatic stress disorder (PTSD), and because of a rumour in the workplace that she had a substance abuse issue.

[3] Canada Post denies that it discriminated against K.L. in relation to her employment. It says that her contract was shortened by a couple of weeks for legitimate business reasons and in compliance with the terms of her employment contract.

[4] The Safe Home-Safe Work Coalition (Coalition) is a working group comprised of two equality rights-seeking organizations, the Barbra Schlifer Commemorative Clinic (Clinic) and DisAbled Women's Network Canada (DAWN). The Coalition says that, if granted interested person status in this proceeding, it will provide valuable assistance to the Tribunal relevant to whether domestic and intimate partner violence (DIPV) can give rise to a finding of discrimination pursuant to the CHRA's protection of the intersecting grounds of sex, disability, and/or family status.

[5] Both K.L. and the Canadian Human Rights Commission (Commission), which is a separate party to this proceeding, support the Coalition's motion. Canada Post opposes the motion.

II. DECISION

[6] The Coalition's motion is substantiated because it has established that its participation in the inquiry will assist the Tribunal to determine K.L.'s complaint, and that it has a genuine interest in the matter before the Tribunal. It is in the interests of justice to grant the Coalition interested person status in this matter.

[7] The Coalition may participate in the proceedings in accordance with the terms outlined in the Order below.

III. ISSUES

[8] I must decide the following issues:

1. Should the Coalition be granted interested person status pursuant to Rule 27 of the Rules of Procedure?
2. If so, what is the extent of the Coalition's participation in the inquiry?

IV. ANALYSIS

A. Issue 1. The Coalition should be granted interested person status

(i) Positions of the Parties

(a) The Coalition

[9] The Coalition has submitted comprehensive submissions in support of its motion that outline in detail the wealth of experience its constituent organizations, the Clinic and DAWN, have in working with and on behalf of women, girls and gender-diverse people, including those with disabilities, who experience various forms of violence and their disabling health effects.

[10] The Clinic, established in 1985, is a multi-disciplinary, front-line service provider for self-identifying women, non-binary, intersex and Two Spirit people who have experienced violence. It is a not-for-profit organization that delivers free legal services including

representation, professional counselling and multilingual interpretation services to clients from a broad cross-section of racial, ethno-cultural and socioeconomic backgrounds. In delivering its services, the Clinic follows an anti-oppressive, intersectional and trauma-informed practice. The Clinic's clients frequently experience precarious employment and heightened involvement with the legal system and authorities, often as a result of current or historical DIPV. The Clinic offers them legal assistance to aid in their attempts to stabilize their lives after leaving situations of physical, sexual and/or psychological abuse. As a United Nations (UN) Economic and Social Council accredited Non-Government Organization with consultative status, the Clinic has made submissions to the UN and its working groups, including those focused on ending violence against women worldwide. The Clinic has experience with the interpretation of Canada's international legal obligations and the application of those obligations in Canadian contexts.

[11] DAWN was also established in 1985 and is a not-for-profit national, feminist and cross-disability organization that provides opportunities for self-determination and leadership development for women and girls with disabilities. Its mission is to end the poverty, isolation, discrimination and violence experienced by women with disabilities and Deaf women living in Canada. DAWN has conducted extensive law reform work, litigation, research and public education regarding issues affecting women and girls living in Canada with disabilities on topics including accessibility and accommodation, employment, justice, abuse and violence. DAWN works to create change at a systemic level, by building strategic partnerships and through education and policy change. As part of its advocacy work, DAWN regularly appears before Parliamentary committees, and reports domestically and internationally on Canada's commitments to advance equality for women and girls with disabilities.

[12] The Coalition's submissions also set out the Clinic's and DAWN's respective experiences as interveners in numerous legal proceedings in Canada, including in seminal equality rights cases.

[13] The Coalition submits that neither this Tribunal nor any other human rights adjudicative body in Canada has yet considered the relevance of DIPV in proving a *prima facie* case of discrimination. However, the British Columbia Human Rights Tribunal

(BCHRT) has acknowledged that domestic violence “cuts across many protected grounds” and observed that exploring whether such violence can give rise to employment discrimination is a unique issue that weighs in the public interest (*Lamoureaux v Township Dental and another*, 2021 BCHRT 110 at paras 28-29).

[14] The Coalition submits that a key feature of K.L.’s complaint is that it raises multiple and intersecting grounds of discrimination in the employment context that, when combined, resulted in compound discrimination that served to further disadvantage a survivor of DIPV who was precariously employed.

[15] The Coalition says it has a special interest in seeing that the CHRA is interpreted purposively and with a view to ensuring women and gender-diverse people subjected to DIPV are able to exercise their right to be employed free of discrimination and to have their distinctive needs accommodated.

[16] The Coalition argues that it should be granted interested person status in this proceeding because it satisfies the following criteria: (i) its expertise will assist the Tribunal; (ii) its involvement will add to the positions of the other parties; (iii) the proceeding will have an impact on the Coalition’s interests; and (iv) the Coalition’s intervention will not prejudice nor cause injustice to the parties (*Walden et al v Attorney General of Canada*, 2011 CHRT 19 [*Walden*] at para 23; *Attaran v Citizenship and Immigration Canada*, 2018 CHRT 6 [*Attaran*] at paras 12, 22-23; *Letnes v RCMP*, 2021 CHRT 30 [*Letnes*] at paras 12-13).

[17] With respect to criterion (i), the Coalition says that its unique intersectional perspective and approach to the issues will assist the Tribunal to understand the disproportionate impact that DIPV has on women and gender-diverse people, which often forces them to choose between work and the personal safety and well-being of themselves and their children. It says the Coalition is also uniquely positioned to address the disabling health effects that the trauma associated with such violence has on its survivors.

[18] With respect to criterion (ii), the Coalition says its involvement will add to the positions of other parties supportive of the complaint but will not be duplicative of these positions. The Coalition says it will supplement and enrich the evidence and submissions of others by demonstrating how DIPV constitutes a form of compound discrimination based on a

multiplicity of prohibited grounds. It says, for example, that it is uniquely placed to highlight and help the Tribunal avoid certain gender and disability-related myths, stereotypes and misunderstandings that can impact decision-making, particularly when making credibility findings, and can help ensure a trauma-informed adjudication. The Coalition says it can also assist the Tribunal by speaking to domestic and international developments in case law, legislation, international conventions, and research scholarship in the field of gender and disability-related violence.

[19] Regarding criterion (iii), the Coalition says the outcome of these proceedings will directly impact the work of the Coalition. Both the Clinic and DAWN work with women, girls and gender-diverse people with a range of identities and lived experiences, including disability, socioeconomic status, race and ethnicity and/or immigration status. The Coalition says that a failure to recognize that DIPV is captured within the meaning of multiple enumerated grounds in the CHRA, including sex, disability and family status, and that it can be an underlying basis upon which to ground a claim of employment discrimination, will pose a barrier for women living in Canada to access employment and receive fair treatment and accommodation within the workplace, as well as prevent them from achieving independence and safety in other spheres of their lives. The Coalition says this issue transcends the particulars of this case and has broad implications for human rights in Canada and that the Tribunal's decision ultimately has the potential to affect the substantive equality rights of survivors of DIPV and their ability to access and maintain employment. As such, it argues that the Tribunal's findings in this complaint will have a significant impact on the advocacy work of the Clinic and DAWN and on the vulnerable and at-risk populations they serve.

[20] Finally, with regard to criterion (iv), the Coalition says that its intervention will not prejudice or cause injustices to the parties, nor will its participation cause delay or complicate the proceedings. The Coalition says it will not seek to expand the factual record and would only seek to supplement the expert evidence if there are gaps it is able to fill and will avoid overlap with the submissions of the other parties.

[21] The Coalition says it seeks to introduce focused evidence and submissions on DIPV as a form or manifestation of discrimination through an intersectional lens and in light of Canada's international law obligations. The Coalition sets out a series of proposed

contributions it would make if it is granted interested person status. These include addressing the extent and form of DIPV in Canada and its disproportionate impact on women and gender-diverse people, including those with disabilities, and addressing the importance of employment for survivors of DIPV to maintain an income that facilitates escaping experiences of DIPV, among several others.

(b) Commission and Complainant

[22] Both the Commission and Complainant support the Coalition's motion. The Commission agrees with the Coalition's statement of the legal principles that apply to its motion and agrees that the Coalition meets all of the criteria to be granted interested person status. The Commission submits that the Clinic and DAWN have a genuine interest in the issues before the Tribunal, as well as unique experiences and knowledge that will help the Tribunal in its consideration of the issues raised by K.L.'s complaint.

[23] The Commission also recognizes that both organizations have made valuable contributions as experienced interveners in other legal proceedings.

[24] If the Coalition's motion is granted, the Commission says that it will work with the parties and the Coalition to avoid the duplication of evidence and submissions.

(c) Canada Post

[25] Canada Post opposes the Coalition's motion for interested person status in its entirety. It disagrees that the Coalition meets the criteria required to be granted interested person status.

[26] With respect to criterion (i), Canada Post argues that the Coalition's expertise will not assist the Tribunal. It does not dispute the Coalition's expertise with respect to DIPV, and the important work it does in this regard. However, Canada Post argues that this is an individual complaint, not a systemic complaint like the cases cited by the Coalition and Commission in their submissions. Canada Post submits that, while a motion for interested person status may be reasonable and logical in the context of claims for systemic

discrimination, particularly in cases involving a large number of complainants or affected individuals, the Coalition's participation cannot possibly assist the Tribunal in its determination of an individual complaint of discrimination based on the events specific to K.L.

[27] With respect to the multiple contributions that the Coalition says it can make to the Tribunal's inquiry, Canada Post argues that none of these contributions will assist the Tribunal to analyze K.L.'s specific experiences and determine whether or not she experienced discrimination in her employment as she alleges.

[28] Canada Post argues that the Coalition's real aim is to advocate for legal reforms. It says that, regardless of one's views about those reforms, this is not the forum for addressing them. It argues that human rights tribunals including the CHRT have recognized that participation in a proceeding should not be granted to parties simply acting as lobbyists. For example, it cites the Tribunal's decision in *Attaran* in which the Tribunal stated that, "Interested party status should not be conferred to give a third party a platform on which to make policy statements unrelated to the inquiry before the Tribunal. Participation should be limited to parties who can demonstrably add to the deliberations of the Tribunal" (at para 21).

[29] Canada Post also refers to a recent Human Rights Tribunal of Ontario (HRT) decision in which it rejected a request for intervener status filed by the Clinic, one of the members of the Coalition, in an individual complaint where it was apparent that the purpose of the intervention was to advocate certain positions (*Villanueva v Toronto Police Services Board*, 2023 HRT 154 [*Villanueva*]). Canada Post argues that, in K.L.'s case, since the Coalition has already stated that it will not seek to expand the factual record and it is clear from its submissions that its aim is to advocate certain positions, not assist the Tribunal, its request should similarly be rejected.

[30] With respect to criterion (ii), Canada Post argues that the Coalition's participation will not add to the legal positions of the parties. It submits that the Commission has or could make all of the public interest contributions the Coalition proposes to make. Canada Post says that, as part of its full participation in this matter, the Commission has supported K.L.'s

factual and legal position and made fulsome submissions, including with respect to intersectionality and international approaches to human rights, including in the context of domestic violence. The Commission has also filed a report authored by their proposed expert witness Dr. Peter Jaffe (Jaffe Report) with respect to intimate partner violence which includes information about the types and forms of DIPV, statistics on its prevalence for women (including the intersections with other grounds such as race or disability), the impacts of and responses to DIPV, the types of workplace accommodations that survivors of DIPV might require, and best practices for employers in responding to such requests, including trauma-informed approaches.

[31] Canada Post notes that the Commission works with the Government of Canada and with domestic and international organizations to ensure the protection of human rights, including those enshrined in treaties to which Canada is a party. It notes that the Commission's mandate includes promoting human rights through research and policy development, representing the public interest to advance human rights for all Canadians, and promoting women's equality by ensuring that federal public and private sector organizations value the work done by women.

[32] Canada Post notes that, while it may not agree with the Jaffe Report or its relevance to the proceeding, this report already addresses several of the contributions identified by the Coalition, while the Commission can address the remaining items itself. Therefore, Canada Post argues, the Coalition has failed to demonstrate how it would make any contribution to the resolution of the legal issues between the parties.

[33] With respect to criterion (iii), Canada Post argues that the proceeding will not have an impact on the Coalition's interests. It argues that, while the Tribunal's decision in this matter may, in a broad sense, impact the work of the Coalition, this is true of any Tribunal decision involving women, girls and gender-diverse people. Canada Post argues that a generalized interest in the outcome of a proceeding or a policy interest cannot be sufficient to meet this criterion. Canada Post argues that a proceeding must have an impact on the moving party's direct interest, which it says is not the case for the Coalition.

[34] Finally, with respect to criterion (iv), the Respondent argues that allowing the Coalition to participate as an interested person would cause undue prejudice to Canada Post, as it would face additional expenses to respond to evidence that would be largely duplicative or go beyond the scope of the complaint. It says the Coalition's participation would lengthen the adjudication of this proceeding, which has yet to advance to a hearing. It argues that any contribution that may be made by the Coalition does not outweigh this prejudice.

(ii) Legal Framework

[35] Section 50(1) of the CHRA gives the Tribunal the discretionary authority to grant interested person status (*Letnes* para 5). The Tribunal's Rules establish the procedure to be followed when one is seeking to be recognized as an interested person. Rule 27 requires that a motion be filed that specifies the assistance the person wishes to provide to the inquiry and the extent to which they wish to participate (27(1) and (2)).

[36] There is a disagreement between the Coalition and Canada Post in this motion about how the Tribunal should apply the legal test when it receives an interested person request. Canada Post argues that, in order to be granted interested person status, one must satisfy all three of the following criteria, set out by the Tribunal in *Walden*:

- i. The prospective interested person's expertise will be of assistance to the Tribunal;
- ii. Their involvement will add to the legal positions of the parties; and
- iii. The proceeding may have an impact on their interests.

[37] In contrast, the Coalition submits that a moving party need not necessarily meet all three of the criteria outlined in *Walden*, although providing assistance to the Tribunal is a critical factor that must be established. The Coalition argues that the Tribunal has rejected a strict application of the factors in *Walden* in favour of more flexibility. For example, in *Letnes*, the Tribunal did not agree with the respondent's argument – identical to Canada Post's – that all three of the *Walden* criteria must be met before it could grant interested person status. The Tribunal stated that it did not accept such a rigid interpretation of the test and noted that more recent case law had shown that the Tribunal's analysis "must be

performed not strictly and automatically, but rather on a case-by-case basis, applying a flexible and holistic approach” (paras 12,13).

[38] In addition to the dispute in the present motion about the appropriate application of the legal test for interested person status, in a separate motion, the Canadian Association of Elizabeth Fry Societies (CAEFS) takes yet a slightly different position as to the framework the Tribunal should apply to determine applications for interested person status. CAEFS argues that the Tribunal should consider the following two factors: (a) whether the proposed interested person is affected by the proceedings and; (b) whether the proposed interested person can provide assistance to the Tribunal in determining the issues before it, with such assistance adding a different perspective to the positions taken by the other parties (relying on *Letnes* at paras 12-18 and *First Nations Child and Family Caring Society of Canada et al. v Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)*, 2016 CHRT 11 [*Caring Society 2016*] at para 3).

[39] Given the differing viewpoints of the parties to this motion, as well as CAEFS in the separate motion, I am of the view that this is an appropriate case in which to reframe the test for interested person applications before the Tribunal. This is particularly appropriate in light of the recent and clear articulation of a principles-based approach to interventions by the Federal Courts. In *Le-Vel Brands, LLC v Canada (Attorney General)*, 2023 FCA 66 [*Le-Vel Brands*], the Federal Court of Appeal confirmed that three factors are to be considered (at para 7):

- 1) the usefulness of the intervener’s participation to what the Court has to decide,
- 2) a genuine interest on the part of the intervener, and
- 3) a consideration of the interests of justice.

[40] I note that this test for intervention is similarly utilized by the Federal Court (see, for example, *Thompson v Canada*, 2024 FC 215).

[41] While the Federal Court of Appeal’s framing of the test in *Le-Vel Brands* captures the key concepts of the intervention test, the wording utilized by the Federal Courts in any particular case may vary slightly. As the Federal Court of Appeal in *Macciachera (Smoothstreams.tv) v Bell Media Inc.*, 2023 FCA 180 [*Macciachera*] noted, the criteria must

“remain flexible because every intervention application is different, involving different facts, different legal issues and different contexts” (at para 12).

[42] While acknowledging that each case is different, the Federal Court of Appeal in *Le-Vel Brands* confirmed that all three elements of the intervention test – usefulness, genuine interest, and consistency with the interests of justice – are potentially relevant and applicants should address all three (para 8). However, it is the first element – usefulness – that is required to be established because, similar to Rule 27 of the Tribunal’s Rules, Rule 109 of the *Federal Court Rules*, S.O.R./98-106 requires a proposed intervener to show how its “participation will assist the determination of a factual or legal issue related to the proceeding.” In other words, it must show how it will be useful to the “actual debate before the Court”. If it cannot do so, the Court is legally bound to dismiss the intervention motion (*Le-Vel Brands* at paras 14-15). Rule 27(2) of the Tribunal’s Rules states that a proposed interested person must “specify the assistance the person wishes to provide to the inquiry”. This is similarly a mandatory requirement and failure to establish how one’s participation will be useful to the Tribunal will result in dismissal of the motion for interested person status.

[43] As such, the Coalition is correct that that the most important consideration is whether a proposed interested person can provide assistance to the Tribunal. It submits that this assistance should add a different perspective to the positions taken by other parties and should further the Tribunal’s adjudication of the matters before it (*Caring Society 2016* at para 3). This position accords with the Federal Court of Appeal’s further elaboration on the usefulness factor in *Le-Vel Brands*: “Will the proposed intervener make different and useful submissions, insights and perspectives that will further the Court’s determination of the legal issues raised by the parties to the proceeding, not new issues?” (para 19). The Court goes on to suggest questions that can be asked to establish the usefulness of the intervener’s participation, including: what issues have the parties raised; what is the proposed intervener’s position on those issues; and, will the proposed intervener’s submissions assist in the determination of the actual, real issues in the proceeding (at para 19).

[44] The Court of Appeal goes on to provide further elaboration with respect to the other two factors of the intervention test. For the second factor, the genuine interest, the Court asks: “Does the proposed intervener have a genuine interest in the matter before the Court

such that the Court can be assured that the proposed intervenor has the necessary knowledge, skills, and resources and will dedicate them to the matter before the Court?” (*Le-vel Brands* at para 19).

[45] For the third factor, whether it is in the interests of justice that the intervention be permitted, the Court states that a flexible approach is required, and recommends asking questions such as: is the intervention consistent with the imperative that proceedings be conducted “so as to secure the just, most expeditious and least expensive outcome” (Rule 3 of the *Federal Court Rules*); has the matter assumed such a public, important and complex dimension that the Court needs to be exposed to perspectives beyond those offered by the particular parties before the Court; and, will the addition of multiple intervenors create the reality or an appearance of an “inequality of arms” or imbalance on one side (*Le-Vel Brands* at para 19).

[46] I am of the view that the Federal Courts’ articulation of the test for intervenors is equally useful for interested person applications before the Tribunal, in that it ensures the Tribunal considers such applications in a principled manner. The Courts’ test is consistent with the general legal considerations the Tribunal has identified in its previous case law. It incorporates the elements of the *Walden* test as well as subsequent considerations set out in cases such as *Letnes, Attaran, Caring Society 2016* and *First Nations Child and Family Caring Society of Canada et al. v Attorney General of Canada*, 2022 CHRT 26.

[47] Indeed, the framing of the intervention test by the Court of Appeal in *Le-Vel Brands* essentially parallels the framing that the Coalition has used to advance this motion. The Coalition argues that: (i) its expertise will assist the Tribunal; (ii) its involvement will add to the positions of the other parties, but not duplicate them; (iii) the proceeding will have an impact on the Coalition’s interests; and (iv) the Coalition’s intervention will not prejudice or cause injustice to the parties. In my view, the first two criteria that the Coalition relies on, which are also the first two criteria from *Walden*, are incorporated into the Federal Courts’ usefulness factor.

[48] Even though the Federal Courts’ test does not, as *Walden*’s second criterion does, explicitly state that an intervenor’s involvement will add to the positions of the other parties,

the Federal Court of Appeal has concluded that proposed interventions that will largely duplicate the position of existing parties are not useful (*Le-Vel Brands* at para 22). By framing the usefulness aspect of the test as, “[T]he proposed intervener will make different and useful submissions, insights and perspectives that will further the Court's determination of the legal issues raised by the parties to the proceeding, not new issues” (at para 19), the Court in *Le-Vel Brands* is necessarily including a consideration of whether the proposed intervener will add to the positions taken by the parties.

[49] For the Tribunal’s purposes, asking whether the proposed interested person will provide different and useful submissions, insights and perspectives that will further the Tribunal’s determination of the legal issues raised by the parties, and not add new issues, ensures that the Tribunal will continue to consider the second *Walden* criterion when determining the usefulness of a proposed interested person’s contributions to the inquiry.

[50] I note that both *Walden* and the Federal Courts’ test consider the interest of the proposed intervener or interested person as a factor when determining a request. In *Walden*, the third criterion is that the proceeding may have an impact on the proposed interested person’s interests. In *Le-Vel Brands*, the Federal Court of Appeal characterizes the second element of the test as whether the proposed intervener has a genuine interest in the matter before the Court, going on to elaborate that this factor requires that the “proposed intervener has the necessary knowledge, skills, and resources and will dedicate them to the matter before the Court” (at para 19).

[51] It is helpful to understand the context of the *Walden* case when considering the slightly narrower framing of this factor by the Tribunal. In *Walden*, a union sought to intervene in a case involving members of its bargaining unit who had brought complaints against the employer. The union had a direct interest in the circumstances and outcome of that case. It is therefore understandable that the test that was utilized by the Tribunal in the context of a union intervention reflects the sort of direct interest that the union had in the case, as opposed to a broader public interest that a litigant such as the Coalition seeks to establish in this case. Indeed, at the HRTO, a bargaining agent has a right to intervene in a complaint by a member against the employer (HRTO Rules of Procedure, Rule 11.4).

[52] I am of the view that requiring a proposed interested person to have a genuine interest in the matter before the Tribunal provides consideration for both those with a direct interest and those with a broader public interest in the proceeding.

[53] While the Tribunal may decide to more precisely establish the parameters of this factor in a case in which it is more acutely contested than the present, including by drawing on cases from the Federal Courts, I note the following consideration of a genuine interest as expressed by the Federal Court of Appeal in *Gordillo v Canada (Attorney General)*, 2020 FCA 198 is of assistance in considering this factor:

[12] In asserting a genuine interest, there must be a link between the issue to be decided and the mandate and objectives of the party seeking to intervene. The source of the genuine interest must be identified and it should be clear from the submissions what animates the intervention. Sometimes, a genuine interest is established through the expertise or experience the intervener brings to the issue. Sometimes it is established through the unique perspective it has on the issues.

[54] The most notable difference between the Federal Courts' and the Tribunal's framing of the intervention test is the Courts' explicit consideration of the interests of justice. However, a careful assessment of the Tribunal's existing case law confirms that the Tribunal already considers the interests of justice when determining applications for interested person status.

[55] *Letnes* highlights that the statutory framework dictates that granting interested person status is a discretionary decision (at para 5, citing s.50(1) of the CHRA). The Tribunal will necessarily exercise its discretion in accordance with the interests of justice. The Tribunal's case law has also previously recognized that it must consider its obligation under s.48.9(1) of the CHRA to ensure interested person requests are determined in accordance with the Tribunal's obligation to conduct its proceedings as informally and expeditiously as the requirements of natural justice and the Rules of Procedure allow (*Caring Society 2016* at para 3). I note that, in *Attaran*, the issue of added cost and expense for the complainant was a significant concern that the Tribunal considered in determining the extent to which the interested person could participate in the inquiry (at para 23). This is an example of how the Tribunal has previously considered the interests of justice and this very closely mirrors the Courts' consideration of Rule 3 of the *Federal Court Rules*.

[56] In addition, in *Woodgate et al. v Royal Canadian Mounted Police*, 2022 CHRT 3 [Woodgate], the Tribunal explicitly considered whether an interested person's participation would cause prejudice to the existing parties in determining whether to grant interested person status (para 75). The Tribunal's determinations based on this consideration were upheld on Judicial Review (*A.B. v C.D.*, 2022 FC 1500 at para 35). The consideration of prejudice in *Woodgate* is another example of the Tribunal taking into account the interests of justice.

[57] Further, in *Attaran*, the acknowledgment that interested person status is "usually for higher profile cases with a significant public interest" (para 21) can be read as an indication that the Tribunal is alive to the questions of whether there are public, important and complex aspects of the case such that the Tribunal benefits from exposure to perspectives beyond those of the individual parties. It is clear that the Tribunal has consistently been aware of considerations related to the interests of justice despite not previously articulating them as a clear, distinct criterion.

[58] In light of the above considerations, the Tribunal will accordingly frame its analysis of the interested person applications in this case by considering the following:

- a. The usefulness of the proposed interested person's participation in assisting the Tribunal to determine the issues before it, including whether the proposed interested person will add to the positions of the existing parties;
- b. A genuine interest on the part of the interested person; and
- c. A consideration of the interests of justice.

[59] The Tribunal has consistently held that the burden of proof rests on the applicant to establish that they should be recognized as an interested person in respect of the inquiry.

(iii) My Decision

[60] In utilizing this slightly revised framework for determining this motion for interested person status, I have considered all of the submissions of the parties.

(a) The Coalition's participation will assist the Tribunal to determine the issues before it, and the Coalition will add to the positions of the existing parties

[61] I am persuaded that the Coalition has established that its participation in the hearing as an interested person will demonstrably add to the deliberations of the Tribunal. The main issue for the Tribunal to determine in this matter is whether Canada Post discriminated against K.L. in relation to her employment. I find that the Coalition's expertise could assist the Tribunal to determine this issue, given its intention to argue that the intersection of multiple grounds may result in compound discrimination. This perspective is important, because Canada Post's position, as set out in its Statement of Particulars, is that K.L.'s "alleged experience of domestic violence (of which Canada Post has no direct knowledge) does not, in and of itself, trigger CHRA protection."

[62] Canada Post takes the position that K.L. cannot prove *prima facie* discrimination on the basis of any of the individual prohibited grounds of discrimination upon which her complaint is based. With respect to the prohibited ground of sex, Canada Post says that K.L. does not allege that she was treated differentially on the basis of her sex. With regard to family status, it says that nowhere does K.L. allege that Canada Post interfered with an immutable and integral obligation arising from the legal relationship between a parent and child. And, with respect to disability, Canada Post says that K.L. has failed to provide any objective medical evidence confirming the existence of a CHRA-protected disability. Canada Post submits that, "at their highest", K.L.'s allegations refer to her being a probable sufferer of PTSD.

[63] The Coalition indicates in its motion that neither this Tribunal nor any other human rights adjudicative body in Canada has yet considered the relevance of DIPV in proving a *prima facie* case of discrimination. While some of the issues the Coalition has identified were also raised by the Commission, I note that the Coalition is specifically offering to aid in explaining Canada's international obligations as they relate to the human rights of women and to assist the Tribunal to understand certain issues, such as the disabling health effects that the trauma associated with DIPV has on its survivors, the role of DIPV in engendering heightened insecurity in employment, and the intersections of DIPV with other forms of

marginalization that result in compound discrimination and create additional barriers to employment, among others. The Coalition has also indicated that it can help to ensure a trauma-informed adjudication.

[64] While I appreciate that the Coalition wishes to raise similar issues to those of the Commission and I take Canada Post's point that the Commission represents the public interest pursuant to the CHRA, I do see that the Coalition intends to bring a perspective that will not be identical to, but will add to, the Commission's position. While the Commission's Jaffe Report may refer to several of the issues the Coalition says it would like to address or bring to the inquiry, the Coalition's constituent organizations clearly have very specialized knowledge and experiences that the Commission as a statutory human rights agency does not, and the Commission supports the Coalition's involvement in the case.

[65] In any event, the Coalition has indicated that it will not duplicate the submissions or evidence of the Commission or other parties. It is ultimately up to the Tribunal to ensure that such duplication is avoided. I will also determine the necessary limits on the Coalition's participation in the proceeding, below.

[66] I am of the view that the Coalition will make different and useful submissions, and bring different and useful insights and perspectives from those of the Commission and Complainant, that will assist the Tribunal to determine the actual issues in this inquiry.

(b) The Coalition has a genuine interest in the matter before the Tribunal

[67] Canada Post argues that a proceeding must have an impact on the moving party's direct interest, which it says is not the case for the Coalition. Respectfully, I disagree. Again, while the context of the *Walden* case may have led to language requiring that there be a direct impact on the interests of proposed interested persons, this is not a case in which a union is applying for interested person status. At the same time, the Coalition does argue that the Tribunal's findings in this complaint will have a significant impact on the advocacy work of the Clinic and DAWN and on the vulnerable and at-risk populations they serve.

[68] Considering whether the proposed interested person has a genuine interest in the matter before the Tribunal allows for a principled consideration of the application. The

Coalition sets out in detail what its interest is in the case and there is a clear link between the mandate of the constituent organizations and the objectives of the Coalition in seeking to intervene in this matter. The Coalition says it has a special interest in seeing that the CHRA is interpreted purposively and with a view to ensuring women and gender-diverse people subjected to DIPV are able to exercise their right to be employed free of discrimination and to have their distinctive needs accommodated. In my view, the Coalition has established that it possesses both expertise and experience in relation to the issues raised in this complaint and that it has the necessary resources to dedicate to the matter.

[69] In *Attaran*, the Tribunal found that the proposed interested party, the Chinese and Southeast Asian Legal Clinic (CSALC) had an impressive track record of test case litigation and making representations to Parliamentary committees, which satisfied the Tribunal that it would bring expertise that could be of assistance to the Tribunal (at para 22). The same is true of both of the Coalition's constituent organizations, the Clinic and DAWN, who each have extensive experience as interveners in various domestic legal proceedings, and with the interpretation of Canada's international legal obligations as they relate to the people they serve. By forming the Coalition, these individual organizations have combined their resources and expertise in an efficient manner in order to offer assistance to the Tribunal and the parties in this matter.

[70] It is also clear that the arguments that the Coalition wishes to advance are important to its constituent members and that the Tribunal's proceeding and decision has the potential to impact the Coalition's interests.

(c) It is in the interests of justice to grant the Coalition interested person status in this proceeding

[71] Canada Post argues that the Coalition's participation would not assist the Tribunal because this proceeding concerns an individual, rather than a systemic, complaint. The Coalition points out that *Attaran*, in which the Tribunal granted interested person status to CSALC, is a case involving an individual, not a systemic, complaint. I note that there is nothing in the CHRA or the Tribunal's Rules or case law that indicate that an interested person may only participate in a systemic case. The extent to which the issues in the case

transcend the parties is an appropriate factor to consider in assessing whether allowing an interested person's participation is in the interests of justice.

[72] In *Attaran*, the Tribunal noted that it often receives applications for interested person status in higher profile cases with a significant public interest (at para 21). Clearly the issues raised by this case are of importance for the Coalition and others, as I note that the Tribunal received three motions for interested person status in this matter, although one motion was subsequently withdrawn.

[73] A case that is not systemic but which raises important legal issues may also draw the attention of organizations or individuals who can identify the importance of such issues to themselves or their members. Such is the case in the present matter. While this case may be about K.L.'s individual experience with her employer Canada Post, the Coalition has also raised an important public interest issue that it argues should be explored by the Tribunal, being that DIPV constitutes a form of compound discrimination based on multiple intersecting grounds. The BCHRT has stated that exploring whether such violence can give rise to employment discrimination is a unique issue that weighs in the public interest. The parties are not in agreement about the intersectionality of prohibited grounds of discrimination being relevant to this complaint, so this is a live issue in the proceeding.

[74] Canada Post argues that the Coalition's real aim is to advocate for legal reforms and that this is inappropriate. However, many parties advocate for the evolution of the law through litigation. The Tribunal is aware that it is Parliament that ultimately decides on any substantive changes to the CHRA itself, but arguing for the Tribunal to consider an intersectional approach is appropriate in the human rights context.

[75] I note that the HRT case (*Villanueva*) referred to by Canada Post can be distinguished from the present application for interested person status. In *Villanueva*, the HRT noted that the Clinic did not indicate that it wished to provide assistance to the Tribunal and that the "true essence and character of their proposed role" was advocacy (para 20). Also, in that case, the hearing was scheduled to take place in one month's time and, given the broad nature of the proposed intervention, the HRT determined that the Clinic's participation would delay the proceedings and potentially transform and expand the

issues in dispute, thus causing prejudice to the parties and the process. In other words, the Clinic's proposed broad-based submissions were not considered useful in determining the issues the parties raised, nor was adjourning the hearing in the interests of justice.

[76] This is not the case with the Coalition's proposed participation. It has clearly indicated how it wishes to assist the Tribunal to determine whether K.L. was discriminated against by Canada Post. Also, the hearing of this complaint has not yet been scheduled.

[77] I appreciate Canada Post's concerns about the impact of permitting an interested person to participate in the hearing of this complaint, but ensuring there are limits on the Coalition's participation will help to alleviate its concerns about the impact on the parties and the Tribunal's proceedings.

B. Issue 2. What is the extent of the Coalition's participation in the inquiry?

[78] If it grants the motion, the Tribunal is required to specify the extent to which an interested person is permitted to participate in the proceedings (27(3)). Pursuant to section 48.9(1) of the *CHRA*, the extent of an interested person's participation must take into account the Tribunal's responsibility to conduct proceedings as informally and expeditiously as the requirements of natural justice and the Rules of Procedure allow (*Letnes* at para 20).

[79] The Coalition seeks an order from the Tribunal granting it interested person status with the following limited rights of participation:

- a. All parties will provide the Coalition with a copy of their Statements of Particulars and all disclosure exchanged by the parties and that they will copy the Coalition on all future written communications with the Tribunal;
- b. That it may participate in case management conferences;
- c. That it may respond to all motions;
- d. That it be permitted to call up to two expert witnesses to address the areas of its proposed contribution after consulting with the Commission, Complainant and any other interested person that is supportive of the complaint in order to avoid duplication;
- e. That it may cross-examine witnesses, including experts; and

- f. That it may make written and oral submissions and file a Book of Authorities at the hearing.

[80] The Commission and Complainant agree with all of the above requested procedural rights.

[81] I note that, in addition to the above list, in its initial motion submissions the Coalition had asked the Tribunal to order that it could also “participate in any mediation or dispute resolution processes conducted by the Tribunal.” The Commission and Complainant did not agree that the Tribunal should order this, noting that, as the Tribunal’s settlement discussions are voluntary for the parties, it should be left to the parties to decide who may or may not attend and on what terms. In its reply submissions, the Coalition recognized this position and amended its request to participate in any mediation or dispute resolution process “on the consent of the parties involved.”

[82] Canada Post’s alternative position with respect to the Coalition’s motion, made without prejudice to its position that the motion should be dismissed, is that, if the Coalition is to be granted interested person status, its participation ought to be narrow and limited. Canada Post opposes the scope of participation sought by the Coalition, which it says would grant the Coalition full status to participate in the hearing by adducing evidence, cross-examining witnesses, and making submissions. Canada Post argues that granting the Coalition such full participatory rights would be contrary to the Tribunal’s obligation under the CHRA to conduct its proceedings as informally and expeditiously as the requirements of natural justice and the Rules of Procedure allow.

[83] Canada Post submits that the only participatory rights that should be granted to the Coalition are that it may provide recommendations to the Commission, at its discretion, with respect to filing evidence, including expert evidence and that it be permitted to make written submissions at the conclusion of the evidentiary portion of the hearing of not more than 5 pages, limited to the discrete issues as determined by the Tribunal, which will assist in its determination of the complaint.

[84] I agree that the Coalition’s participation should be limited, although not quite to the extent proposed by Canada Post. As its position is similar to that taken by the Commission,

which is a full party to the proceeding, there is no reason to grant the Coalition full participatory rights. I agree to grant the Coalition the participatory rights set out in the Order section below, which will allow it to focus its participation and to avoid duplication and further delay in the proceedings:

V. ORDER

[85] The Coalition:

- a. may participate in case management conferences so long as its participation does not cause any scheduling delays;
- b. will be permitted to call no more than one expert witness to address the areas of its proposed contributions after consulting with the Commission, Complainant and any other interested person that is supportive of the complaint in order to avoid duplication;
- c. may receive the documents disclosed by the parties for the purpose of determining whether it will call an expert witness;
- d. may apply for leave to cross-examine the expert witness(es) of the parties;
- e. may apply for leave to file or respond to Motions in this matter;
- f. may make written and oral closing submissions and file a Book of Authorities at the hearing;
- g. must respect the Confidentiality Ruling in place with respect to this complaint (2023 CHRT 29).

[86] All parties:

- a. will provide the Coalition with a copy of their Statements of Particulars;
- b. will provide the Coalition with a copy of their documents that have been disclosed to the other parties in this proceeding;
- c. will provide the Coalition with all hearing-related materials, including their proposed Lists of Exhibits prior to the hearing, their Books of Documents, and their written closing submissions;
- d. will provide the Coalition with any Motion materials filed in this matter from the date of this Ruling;

[87] All parties and the Tribunal:

- a. will copy the Coalition on all correspondence from the date of this Ruling, unless it relates to mediation.

Signed by

Colleen Harrington
Tribunal Member

Ottawa, Ontario
April 10, 2025

Canadian Human Rights Tribunal

Parties of Record

File No.: T2664/4021

Style of Cause: K.L. v. Canada Post Corporation

Ruling of the Tribunal Dated: April 10, 2025

Motion dealt with in writing without appearance of parties

Written representations by:

K.L., Self-represented Complainant

Brian Smith, for the Canadian Human Rights Commission

Jennifer Hodgins, for the Respondent

Elizabeth K. P. Grace and Zahra Vaid, for the Interested Person