

**Canadian Human
Rights Tribunal**



**Tribunal canadien
des droits de la personne**

Citation: 2025 CHRT 32

Date: April 25, 2025

File No.: T2664/4021

Between:

K.L.

Complainant

- and -

Canadian Human Rights Commission

Commission

- and -

Canada Post Corporation

Respondent

Ruling

Member: Colleen Harrington

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I. OVERVIEW

[1] The Canadian Association of Elizabeth Fry Societies (CAEFS) 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 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] CAEFS is a federation of 24 autonomous Elizabeth Fry Societies, which are local community-based non-profit agencies, some of which provide direct services to federally sentenced women. CAEFS is dedicated to raising awareness about the issues faced by criminalized women and gender-diverse people, advocating for legislative and administrative reform in the criminal justice system, and providing public education on criminal justice issues.

[5] CAEFS says that, if granted interested person status in this proceeding, it will provide assistance to the Tribunal in understanding discrimination in the context of intimate partner violence (IPV) and its intersection with the experiences of criminalized women and gender-

diverse people. It says that this perspective will assist the Tribunal in adjudicating this complaint by providing an important and relevant context for interpreting the grounds of discrimination raised in K.L.'s complaint.

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

II. DECISION

[7] The motion is dismissed because CAEFS has not established that its participation in the inquiry will assist the Tribunal to determine K.L.'s complaint.

III. ISSUES

[8] I must decide the following issues:

1. Should CAEFS be granted interested person status pursuant to Rule 27 of the Rules of Procedure?
2. If so, to what extent should CAEFS be permitted to participate in the inquiry?

IV. ANALYSIS

A. Issue 1. CAEFS should not be granted interested person status

(i) Positions of the Parties

(a) CAEFS

[9] CAEFS has provided comprehensive submissions in support of its motion for interested person status pursuant to Rule 27. CAEFS submits that, rather than applying rigid criteria to determine interested person motions, the Tribunal's modern practice is to address such requests holistically, on a case-by-case basis, generally taking the following factors into consideration:

- 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. That assistance should add a different perspective to the positions taken by the other parties

(relying on *Letnes v RCMP*, 2021 CHRT 30 [*Letnes*] at paras 12-18; *First Nations Child and Family Caring Society et al. v Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)*, 2016 CHRT 11 at para 3).

a. CAEFS will be affected by the proceedings

[10] CAEFS submits that the Tribunal has consistently granted interested person status where the proceedings would have an impact on the moving party's interests or that of a large number of its members (for example, in *First Nations Child and Family Caring Society et al. v Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)*, 2020 CHRT 31).

[11] CAEFS argues that it should be permitted to participate in this inquiry because CAEFS and its network, including its local member societies and the criminalized women and gender-diverse people who drive its work, have a genuine and substantial interest in the issues raised in the complaint and will be directly affected by its disposition. In particular, CAEFS says they will be directly impacted by the Tribunal's decision regarding the unique form of marginalization experienced by survivors of IPV.

[12] CAEFS states that the vast majority of individuals incarcerated in prisons designated for women have been the victims of violence, sexual harassment and IPV. According to the 2020-2021 Annual Report of the Office of the Correctional Investigator (OCI), more than 80% of federally sentenced women have experienced physical violence and nearly 70% have experienced past sexual abuse. The OCI Report notes that, for Indigenous women, the rates are higher. CAEFS says that, not only have these individuals experienced the direct harms and trauma of IPV, but they also experience the consequential harms that often stem from the experience of IPV, including direct criminalization and criminalization flowing from stigma, loss of housing and loss of employment.

[13] CAEFS says it is also relevant that every aspect of the life of federally incarcerated women and gender-diverse persons is governed by the CHRA because the Tribunal's approach to addressing the interactions between the CHRA and IPV in this case will materially and disproportionately affect the interests of the people CAEFS represents. It says that, if the lived experiences of these women and gender-diverse people are not considered in a decision governing the interpretation of the CHRA in relation to IPV, the Tribunal risks making a decision that will significantly affect some of the most marginalized survivors of IPV, without hearing from them.

[14] Additionally, CAEFS points to its ongoing litigation in two complaints before the Tribunal alleging systemic discrimination against women in the federal prison system based on sex, race, national or ethnic origin, religion and disability, as well as through the intersection of multiple grounds. CAEFS says the approach adopted in the present proceeding will have a material impact on that litigation, which also asks the Tribunal to consider the intersection of grounds of discrimination under the CHRA.

b. CAEFS brings a useful and different perspective before the Tribunal

[15] CAEFS says that it will bring a unique and relevant perspective to the proceeding, given its demonstrable historical and current interest in the interpretation and application of the CHRA to the lived experiences of criminalized women and gender-diverse people who are, disproportionately, survivors of IPV. CAEFS says it has decades of relevant advocacy experience not only before the Tribunal, but also before courts, other tribunals, inquests and inquiries.

[16] In supplementary submissions, CAEFS advises that it has recently been granted interested person status in another case before the Tribunal. CAEFS has also made submissions to Parliamentary committees on issues affecting federally sentenced women and gender-diverse persons, including appearing before the House of Commons Standing Committee on Justice and Human Rights as part of its study of a Bill to amend the Criminal Code relating to coercive control of intimate partners. At this appearance, CAEFS testified about the experiences of criminalized survivors of IPV, including the impacts of criminalization on employment.

[17] CAEFS says its extensive track record of advocacy and the expertise it can bring to this matter will assist the Tribunal in gaining a better understanding of the specific discrimination faced by survivors of IPV. CAEFS says it brings expertise, including insights on the systemic ramifications of IPV, and its impacts and interactions with criminalization, that would not otherwise be available to the Tribunal.

[18] CAEFS says that it will make submissions that are different from those of the other parties to the proceeding. It says it will make submissions on the following issues:

- i. Human rights law must meaningfully account for the lived experiences of those who fall under its protection. In the context of IPV, this demands a robust intersectional approach to the unique and complex nature of the discrimination faced by survivors;
- ii. The interpretive approach to the CHRA must recognize the full range and insidiousness of the impacts of IPV and the multiple grounds that may be engaged in any particular survivor's story;
- iii. The analysis must contend with the complex web of trauma, violence and stigma that arise in relation to IPV, which prevents survivors of IPV from accessing equal opportunities in society and that damages their dignity;
- iv. The interpretation of the CHRA must contend with the pathways by which surviving IPV leads to further marginalization, often including criminalization, which arises in a number of ways, including through the cycle of violence, mandatory charging laws, stigma, loss of housing and employment;
- v. The interpretation of the CHRA must be informed by, and conform to, international legal and human rights instruments that bind Canada and that demand that Canada address the protection and support of survivors through all areas of law, including human rights law.

[19] CAEFS argues that it must be allowed to meaningfully participate in the proceedings and that it is committed to working with the parties and the Tribunal to ensure expeditiousness in the Tribunal's process. It says it will ensure that it does not repeat arguments or delay the proceedings and will focus its contributions on those areas in which it can provide a different perspective. CAEFS remains committed to abiding by any timetable set by the Tribunal.

[20] Finally, CAEFS submits that the impact of these proceedings on its interests and the useful contributions it will make outweigh the potential inconvenience of adding it as an

interested party at this stage. It argues that there would be no prejudice to the parties if this motion is granted.

[21] While CAEFS was originally seeking an order granting it interested person status on broad terms, in its reply submissions CAEFS revised its position due to the time that has passed in the case since it filed its motion. Accordingly, CAEFS seeks an order granting it interested person status on the following terms:

- a. All parties shall provide CAEFS with a copy of their respective Statements of Particulars and all disclosure;
- b. CAEFS may file a Statement of Particulars, cross-examine expert witnesses, cross-examine fact witnesses with leave of the Tribunal, and make written and oral submissions at the hearing; and
- c. Any other order the Tribunal may deem appropriate.

(b) Complainant and Commission

[22] K.L. agrees that CAEFS should be allowed to participate in the case as an interested person.

[23] The Commission also supports CAEFS' motion. It agrees with CAEFS' articulation of the legal principles the Tribunal should consider when determining interested person status. The Commission says the Tribunal can also take into account its responsibility to conduct proceedings expeditiously and informally, and the public interest in the matter (relying on *First Nations Child and Family Caring Society of Canada et al. v Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)*, 2024 CHRT 95 at paras 32 and 35 and 2022 CHRT 26 at para 37).

[24] The Commission also says it will work with the parties and CAEFS to avoid duplication of evidence and submissions.

(c) Canada Post

[25] Canada Post takes the position that, when considering a motion for interested person status, the Tribunal should apply the legal test outlined in *Walden et al. v Attorney General of Canada (representing the Treasury Board of Canada and Human Resources and Skills Development Canada)*, 2011 CHRT 19 [*Walden*]. The Tribunal in *Walden*, at paragraph 23, identified three criteria a proposed interested person must meet, which are:

- (a) the prospective interested person's expertise will be of assistance to the Tribunal;
- (b) its involvement will add to the legal positions of the parties; and
- (c) the proceeding will have an impact on the moving party's interests.

[26] Canada Post opposes CAEFS' motion to be granted interested person status, arguing that it does not meet the criteria set out in *Walden*.

a. CAEFS' expertise will not assist the Tribunal

[27] Canada Post does not dispute CAEFS' expertise in assisting women and gender-diverse people impacted by criminalization and the important work it does in this regard. It says that it is understandable that CAEFS would have been granted interested person status in cases alleging systemic discrimination by Correctional Service Canada (CSC). However, Canada Post submits that such cases do not support CAEFS' current request given the radically different nature of this individual complaint against a former employer, which contains no claims of systemic discrimination.

[28] Canada Post submits that CAEFS' expertise will not assist the Tribunal as it is not relevant to this individual complaint advanced by K.L., who alleges that she experienced discrimination on the basis of disability, sex and/or family status in the course of her approximately four-month fixed-term employment with Canada Post. K.L. has not alleged that she has experienced criminalization or incarceration, nor is Canada Post alleged to have discriminated against her on any basis related to her involvement with the criminal justice system. As such, Canada Post argues that CAEFS seeks to make a connection between its expertise and the issues in the case that is tenuous at best.

[29] Canada Post argues that CAEFS appears to be seeking to use this proceeding as a platform to advocate for legal reforms and systemic changes impacting incarcerated people in Canada, and this is not the proper forum to pursue such objectives, as this case does not raise such broad systemic issues or the intersection of IPV and criminalization. Canada Post says that, generally speaking, Canadian courts refuse intervention requests by non-parties seeking admission to a proceeding whose aim is to transform or add to the issues in the dispute, rather than furthering the determination of the matter. For example, in *Macciachera (Smoothstreams.tv) v Bell Media Inc.*, 2023 FCA 180, the Federal Court of Appeal, in denying intervention status to a legal clinic, stated that “interveners are not given ‘an open microphone’ to discuss whatever may be on their mind about a given case” (at para 19). The Tribunal in *Attaran v Citizenship and Immigration Canada*, 2018 CHRT 6 [Attaran] also stated that interested person “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” (at para 21).

[30] In addition to being irrelevant to this matter, Canada Post argues that CAEFS’ expertise is also unnecessary. Canada Post says the submissions CAEFS proposes to make will not assist the Tribunal because they are mainly generalized arguments, including with respect to criminalization, which is simply not a live issue in this proceeding. It says these submissions will not assist the Tribunal to determine whether the Complainant experienced discrimination as alleged. Also, Canada Post notes that the Commission’s proposed expert report (the Jaffe Report) already addresses the issues of intersectionality, trauma and marginalization specific to women who have experienced IPV. As such, it submits that CAEFS has failed to show how it would make any contribution to the resolution of the legal issues between the parties, and so its participation will not assist the Tribunal.

b. CAEFS’ involvement will not add to the legal positions of the parties

[31] Canada Post argues that CAEFS’ contributions would be duplicative and would fall squarely within the expertise of the Commission, which is best placed, in its role as an advocate for the public interest that it is fully participating in this proceeding, to make the submissions CAEFS proposes to make.

[32] Canada Post says that the Commission is a national human rights institution with a mandate to, among other things, promote human rights through research and to partner with various organizations to ensure compliance with the human rights treaties to which Canada is a party. The Commission can submit evidence, including expert evidence if necessary, and has already served the Jaffe Report on the other parties. Therefore, it argues that the Tribunal will receive all of the information and perspectives needed to determine the complaint, and CAEFS' participation would not contribute anything that cannot be provided by the Commission.

c. The proceeding will not have an impact on CAEFS' interests

[33] Canada Post argues that CAEFS does not have a legal interest in this proceeding. It argues that the other complaints it is currently involved with at the Tribunal are completely unrelated to this matter, as they are broad systemic complaints brought against CSC on behalf of federally incarcerated women. These other complaints do not involve the factual or legal questions that are involved in this matter. Canada Post says that, if CAEFS' legal interests are engaged solely because its other complaints involve intersecting grounds of discrimination, then any Tribunal case involving more than one protected ground would engage its legal interests. It says that such an approach would effectively remove any threshold or burden for a moving party to establish interested person status.

[34] Canada Post submits that CAEFS has solely advanced a generalized policy interest in the outcome of this proceeding. It says that, on that basis, any Tribunal decision involving the interpretation of the CHRA, including with respect to IPV or any individual involved in the criminal justice system in some way, would impact CAEFS' work. It says this would turn the Tribunal process into a "commission of inquiry or a forum for consultation with any and all interested parties".

[35] In addition to not satisfying the three criteria set out in *Walden*, Canada Post argues that allowing CAEFS to participate as an interested person would cause undue prejudice, as Canada Post would be faced with the additional expense of responding to evidence that would be largely duplicative or go beyond the scope of the complaint. It says that CAEFS' participation would also lengthen the adjudication of this proceeding, which has yet to

advance to a hearing. Canada Post argues that any contribution that may be made by CAEFS, which it disputes in any event, does not outweigh this prejudice.

(ii) Legal Framework

[36] 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)). If it grants the motion, the Tribunal is required to specify the extent to which the interested person is permitted to participate (27(3)).

[37] In a previous Ruling issued in this matter in which I granted the Safe Home-Safe Work Coalition's (Coalition) motion for interested person status in this proceeding (2025 CHRT 28 [Coalition Ruling]), I undertook to reframe the test for interested person applications before the Tribunal. I did this in light of the differing viewpoints taken by the parties and proposed interested persons in this case, with respect to the framework the Tribunal should apply to determine such motions. In the Coalition Ruling, which may be read in conjunction with the present ruling, I determined that it was appropriate for the Tribunal to utilize a principles-based approach to interested person applications.

[38] I will not repeat the full legal analysis conducted in the Coalition Ruling, but note that I determined that the Tribunal would frame its analysis of interested person applications by considering the following factors (at paragraph 58):

- a. The usefulness of the proposed interested person's participation in assisting the Tribunal to determine the issues before it, including a consideration of 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.

[39] Ultimately, I determined that this slightly revised test for interested person applications is consistent with Rule 27 and with the general legal considerations the Tribunal

has identified in its previous interested person rulings. It incorporates the criteria the Tribunal has relied on since the *Walden* decision, as well as the subsequent considerations, such as flexibility, that were introduced in later jurisprudence (see, for example, *Letnes*, *Attaran*, and the various *First Nations Child and Family Caring Society* decisions referred to in this ruling). The main difference between this revised test and the Tribunal's previous case law is the explicit consideration of the interests of justice. This factor had been implicitly considered by the Tribunal when deciding previous interested person applications.

(iii) Decision

[40] In applying the above framework for determining this motion for interested person status, I have considered all of the submissions of the parties.

[41] The Tribunal has consistently held that the burden rests on the moving party to establish that they should be recognized as an interested person in respect of the inquiry. I do not find that CAEFS has met this burden.

(a) CAEFS' participation will not ultimately assist the Tribunal to determine the issues before it

[42] 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 am not persuaded that CAEFS has established that its participation in the hearing as an interested person will assist the Tribunal to determine this issue (see Coalition Ruling at para 43, referencing *Le-Vel Brands, LLC v Canada (Attorney General)*, 2023 FCA 66 [*Le-Vel Brands*] at para 19).

[43] I agree with CAEFS that the question of the interplay between IPV and the CHRA arises squarely in this case. It is raised by both the Complainant and the Commission in their Statements of Particulars, while Canada Post's position in its Statement of Particulars is that IPV does not, in and of itself, trigger CHRA protection.

[44] Canada Post takes the position that K.L. cannot prove *prima facie* discrimination on the basis of any of the individual alleged grounds of discrimination. 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.

[45] While Canada Post may disagree that the Tribunal should address the question of whether disclosure of IPV experiences triggers CHRA protections, the question is clearly at issue in this case and CAEFS was not the first to raise it. In addition to the Commission and K.L. raising this issue in their Statements of Particulars, the Tribunal has already granted the Coalition interested person status, given its intention to argue that the intersection of multiple grounds may result in compound discrimination.

[46] In addition to focussing its submissions on the intersectional approach the Tribunal should adopt when addressing discrimination faced by survivors of IPV, CAEFS proposes to argue that the Tribunal must consider international legal and human rights instruments that demand that Canada protect and support survivors of IPV. CAEFS also proposes to argue that the Tribunal’s approach must recognize the complex web of trauma, violence and stigma that arises in relation to IPV, which can lead to the further marginalization and criminalization of survivors.

[47] While I appreciate the significance of such issues to CAEFS, I note that the Commission has also raised the issue of the status of IPV under international human rights law. In its Statement of Particulars, the Commission asserts that there is a gap between Canada’s international recognition of domestic violence as a human rights issue affecting women and a recognition of these rights domestically. It submits that the CHRA must be responsive to the needs and realities of society. The Coalition, as an interested person, has also specifically offered to aid in explaining Canada’s international obligations as they relate to the human rights of women. In addition, it has offered to explain certain issues, including but not limited to: the disabling health effects that the trauma associated with IPV has on its survivors; the role of IPV in engendering heightened insecurity in employment; and, the

intersections of IPV with other forms of marginalization that result in compound discrimination and create additional barriers to employment.

[48] In granting the Coalition interested person status, I accepted that it intends to bring a perspective that will not be identical to, but will add to, the Commission's position. I noted that, 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 (the Barbra Schlifer Commemorative Clinic and DisAbled Women's Network Canada) have very specialized knowledge and experiences that the Commission does not possess.

[49] With minor exceptions, the submissions that CAEFS wishes to make in respect of this complaint are the same as those that the Coalition intends to make. While CAEFS offers to address the additional element of how marginalization faced by IPV survivors often leads to direct or indirect criminalization, this particular information is not necessary for the Tribunal to determine K.L.'s complaint. It will not provide further assistance or add to the actual, real issues that the Tribunal must decide (see Coalition Ruling at para 43, referencing *Le-Vel Brands* at para 19).

[50] While I appreciate CAEFS' position about how the Tribunal's determination of this case will have an impact on CAEFS' interests and on the members of its network and the people it serves who are disproportionately survivors of IPV and singularly subject to the CHRA, the Commission and Coalition intend to make the same arguments as those proposed by CAEFS about the interplay of IPV and the CHRA. Also, given the wealth of experience the Coalition's constituent organizations have in working with and on behalf of women and gender-diverse people who experience various forms of violence and their disabling health effects, I am confident that CAEFS' concern that the Tribunal hear about the lived experiences of women and gender-diverse people who have experienced IPV will be satisfied.

[51] I do not agree that the Tribunal can or should grant interested person status solely on the basis that the proceedings would have an impact on the moving party's interests or on the interests of a large number of its members. Rule 27 requires the proposed interested person to "specify the assistance the person wishes to provide to the inquiry". This is 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 (Coalition Ruling at para 42; see also see *Le-Vel Brands* at paras 14-15).

[52] I do not find that CAEFS has established that it satisfies the most critical factor, that its participation in this matter will assist the Tribunal in its determination of the legal issues before it. Furthermore, I am not persuaded that CAEFS will make different submissions or bring different insights and perspectives from those of the Commission, the Complainant and the Coalition.

[53] As I have not concluded that CAEFS satisfies the mandatory criterion of providing unique assistance to the Tribunal's determination of the legal issues before it, I do not need to consider the other two criteria, whether CAEFS has a genuine interest in the proceeding and whether it is in the interests of justice to make CAEFS an interested person in this proceeding. However, I would note that, given the Tribunal's obligation to conduct its proceedings as informally and expeditiously as the requirements of natural justice and the Rules of Procedure allow (s. 48.9(1) of the CHRA and Rule 5 of the Rules of Procedure), granting interested person status to CAEFS—when its role would be duplicative of the Coalition's and, to some extent, that of the Commission and Complainant—would not be in the interests of justice.

[54] As I am not granting CAEFS interested person status, I do not need to consider the second issue, namely the extent of CAEFS' participation in the inquiry.

V. ORDER

[55] CAEFS' motion for interested person status is dismissed.

Signed by

Colleen Harrington
Tribunal Member

Ottawa, Ontario
April 25, 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 25, 2025

Motion dealt with in writing without appearance of parties

Written representations by:

K.L., Self-represented

Brian Smith, for the Canadian Human Rights Commission

Jennifer Hodgins, for the Respondent

Morgan Rowe, Simcha Walfish and Anna Rotman, for the Applicant, Canadian Association of Elizabeth Fry Societies