

**Canadian Human
Rights Tribunal**



**Tribunal canadien
des droits de la personne**

Citation: 2025 CHRT 117
Date: December 31, 2025
File No.: HR-DP-2946-23

Between:

Coreena Masson

Complainant

- and -

Canadian Human Rights Commission

Commission

- and -

Onion Lake Cree Nation

Respondent

Decision

Member: Gary Stein

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I. DECISION AND OVERVIEW

[1] This decision is about the human rights complaint of Coreena Linklater (formerly Coreena Masson) against the Onion Lake Cree Nation. For the reasons below, I dismiss this complaint.

[2] Mrs. Linklater, the Complainant, is an Indigenous woman who identifies as Plains Cree.

[3] The Onion Lake Cree Nation (the OLCN) is a Cree First Nation community.

[4] Mrs. Linklater grew up on a property (the “Masson Lands”) that is next to the OLCN’s reserve lands (“the Reserve”). She inherited the Masson Lands from her parents and is now the sole owner.

[5] Mrs. Linklater is a member of the Saddle Lake Cree Nation. She also has strong ties to the OLCN. She went to elementary school and high school on the Reserve. The OLCN employed her as a teacher for many years. She has many family connections to OLCN members.

[6] In 2017, Mrs. Linklater filed a human rights complaint against the OLCN (the “2017 Complaint”) with the Canadian Human Rights Commission (the “Commission”). Mrs. Linklater and the OLCN settled that complaint in February 2020.

[7] In October 2020, Mrs. Linklater filed a second human rights complaint (the “Retaliation Complaint”) against the OLCN. It alleges that the OLCN retaliated against her because she had filed the 2017 Complaint. Mrs. Linklater says that the OLCN retaliated against her in three ways: by blocking a road to prevent her from accessing the Masson Lands, by calling her a “trespasser” and “an outsider” during a Chief and Council meeting, and by its decisions in 2021 and 2022 to stop employing her as a teacher. The OLCN denies that it retaliated in any way against Mrs. Linklater. This decision is about the Retaliation Complaint.

[8] In June 2021, Mrs. Linklater signed a release (the “Release”) about matters related to the termination of her employment that existed up to the date of the Release.

[9] The Commission referred Mrs. Linklater’s Retaliation Complaint to the Tribunal for inquiry, and it participated in the inquiry based on its mandate to represent the public interest in Tribunal proceedings. In December 2024, the Tribunal held a hearing about this complaint.

[10] Mrs. Linklater refers to other incidents of alleged retaliation in her closing submissions that were not identified in her Statement of Particulars (SOP). This decision does not address them because they are not within the scope of this complaint.

II. ISSUE(S)

[11] In the Retaliation Complaint, Mrs. Linklater alleges that the OLCN engaged in a “discriminatory practice” by acts of retaliation, contrary to section 14.1 of the *Canadian Human Rights Act*, R.S.C. 1985 c. H-6 (the CHRA). The issues in this case are:

- 1) Preliminary issue: what effect, if any, does the Release have on Mrs. Linklater’s Retaliation Complaint?
- 2) Did Mrs. Linklater file a human rights complaint against the OLCN?
- 3) If so, did Mrs. Linklater experience an adverse impact or impacts after she filed a human rights complaint?
- 4) If so, was Mrs. Linklater’s human rights complaint a factor in the adverse impact(s) that she experienced?
- 5) If Mrs. Linklater and the Commission have proven that the OLCN engaged in a discriminatory practice, what are the remedies?

III. CONTEXT

A. The OLCN and the Reserve

[12] The OLCN is a First Nation signatory to Treaty 6. It is governed by Onion Lake Election Law, *Wicekaskosiw Sakahikan Nowasonitowin Wiyasiwewin*, which provides for the election of an Okimaw (a Chief) and eight Councillors. The OLCN's Reserve is about 35 kilometres from east to west and 50 to 60 kilometres from north to south. It straddles the border of Saskatchewan and Alberta, approximately 50 kilometres north of Lloydminster.

B. The Masson Lands

[13] The Masson Lands are in the Regional Municipality of Frenchman Butte, Saskatchewan, next to the Reserve. A road that runs approximately north-south along the eastern edge of the Reserve (the "Boundary Road") separates the Masson Lands and the Reserve. The Masson Lands are on the east side of the road and the Reserve is on the west side. There is an entrance to the Masson Lands off the Boundary Road. Heading south from there, the Boundary Road runs along the edge of the Reserve until it meets a Frenchman Butte municipal road, close to the house of OLCN member Hubert Pahtayken. Heading north from the entrance to the Masson Lands, the Boundary Road continues to run on the Reserve.

[14] An issue in this case involves a conflict between Mrs. Linklater and two of her first cousins, Hubert and Walter Pahtayken, both of whom are OLCN members. They were also Councillors on the OLCN's Chief and Council during the events in the Retaliation Complaint.

[15] Context about the family connections and the Masson Lands is useful. Archie Masson was the grandfather of Mrs. Linklater and Hubert and Walter Pahtayken. Archie Masson purchased the 77-acre Masson Lands from a rancher for whom he worked. Archie Masson wanted to have his children and their families live there. After he passed away, the ownership transferred to Mrs. Linklater's father, Harry Masson, and her mother, Christine Harriet Masson. They lived on the Masson Lands during Mrs. Linklater's childhood. Harry Masson's siblings and their families also lived there. Harry Masson and Christine Harriet

Masson put a trailer on the land. They moved away but returned in 2009 and started renovating the trailer. In 2011, Harry Masson passed away and Christine Harriet Masson moved into an elder's lodge on the Reserve.

[16] Mrs. Linklater lived on the Masson Lands when she was a child. She went to school on the Reserve. She later lived in other places but moved back to the Masson Lands in 2016 and continued to renovate the trailer. In 2018, Mrs. Linklater moved to Lloydminster, but she continued to work on the trailer. In 2020, her mother passed away and Mrs. Linklater became the sole owner of the Masson Lands.

[17] Hubert and Walter Pahtayken, and other members of Mrs. Linklater's extended family, also grew up on the Masson Lands. They later became OLCN members and moved onto the Reserve. Mrs. Linklater was not granted OLCN membership despite multiple applications. Hubert Pahtayken now lives across the Boundary Road from the Masson Lands. He and Walter Pahtayken were elected to the OLCN's Chief and Council.

[18] Hubert Pahtayken testified during the hearing. He said that the Masson Lands were open to himself and his family when his father and Mrs. Linklater's father were alive. Mr. H. Pahtayken and his family grazed horses on the Masson Lands and crossed the property to get to a picnic spot on the Reserve for family reunions. However, their access to the property ended in about 2014, following Harry Masson's death and the ownership transfer of the Masson Lands to Mrs. Linklater and her mother. According to Mr. H. Pahtayken, his aunt locked the gate to the property and told him that she would have him and his family members charged with trespassing if they entered the property. Mr. H. Pahtayken said that he stopped going onto the Masson Lands at that time, that he and his family accept that Mrs. Linklater owns the property, and that they have had nothing to do with the Masson Lands. He referred to the conflict about the Masson Lands as "water under the bridge."

[19] Mrs. Linklater's evidence about the conflict was different. The human rights complaint form that she filed with the Commission for the Retaliation Complaint states that "Hubert Pahtayken and Walter Pahtayken have been after my land because they feel it belongs to them, to the [R]eserve." In the hearing, Mrs. Linklater testified that the conflict began in 2014 and that "... they were always after our land for some reason." Mrs. Linklater testified that

the conflict with her cousins is ongoing, and that the conflict about the Masson Lands is a reason why the OLCN engaged in retaliatory actions against her.

[20] The analysis below makes findings about this conflict and whether it is connected to the acts of alleged retaliation that Mrs. Linklater has complained about.

C. Summary of the retaliation allegations

(i) The roadblocks

[21] In January 2020, the OLCN's Chief and Council declared a state of emergency due to high levels of crime and drug trafficking by gangs coming onto the Reserve. The OLCN enacted emergency measures to respond to the crisis and to protect its members. One measure was to install cement barriers on roads leading onto the Reserve.

[22] Mrs. Linklater alleges that the roadblocks that the OLCN installed on the Boundary Road prevented her from accessing the Masson Lands. In her view, the fact that she had previously filed the 2017 Complaint is a reason why the OLCN installed the roadblocks.

[23] The OLCN disputes this allegation. According to it, the goal of the roadblocks was to prevent gang members from using the roads on the Reserve.

(ii) Comments made in a Chief and Council meeting

[24] On October 13, 2020, Mrs. Linklater attended a Chief and Council meeting to discuss the roadblocks. She alleges that, during the meeting, Councillor Hubert Pahtayken called her an "outsider" and a "trespasser," and Councillor Walter Pahtayken said that she had no rights to the Masson Lands and that she did not live there. The OLCN disputes this allegation.

(iii) The decisions about Mrs. Linklater's employment

[25] Mrs. Linklater worked for many years as an elementary school teacher on the Reserve. This case involves two decisions related to Mrs. Linklater's employment.

[26] In April 2021, the OLCN's Director of Education informed Mrs. Linklater that the Chief and Council had decided not to renew her teaching contract for the 2021–2022 school year. Mrs. Linklater argues that the OLCN made this decision in retaliation for the 2017 Complaint. The OLCN disagrees.

[27] After the decision to not renew Mrs. Linklater's contract, the OLCN's Director of Education allowed her to work occasionally as a substitute teacher. However, in March 2022, the Director decided to end the substitute teaching work. Mrs. Linklater says this decision was also retaliation for the 2017 Complaint. The OLCN disputes this allegation.

IV. PRELIMINARY ISSUE: WHAT EFFECT, IF ANY, DOES THE RELEASE HAVE ON MRS. LINKLATER'S RETALIATION COMPLAINT?

[28] On June 29, 2021, Mrs. Linklater signed the Release, which states that, in exchange for payment, she released the OLCN from all claims related to the termination of her employment up to the date when the Release was signed, including claims made under the CHRA.

[29] As explained below, I am satisfied that the Release is valid and binding. I find that the Release applies to the allegations related to the OLCN's decision in 2021 not to renew Mrs. Linklater's teaching contract, but it does not apply to the allegations related to its decision to end her substitute teaching work in 2022.

[30] Mrs. Linklater testified that she signed the Release and received the payment for it, and that she understood it. She also testified that she did not want to sign the Release, and that she told Elizabeth Waskewitch, an OLCN employee who was with her when she signed it, that she did not want to sign but did so because she was experiencing financial hardship. She also testified about difficult personal and family-related issues that she had experienced before she signed the Release.

[31] On June 24, 2021, five days before signing the Release, Mrs. Linklater sent an email to the OLCN's Chief and others, stating that she did not need the money to be paid under the Release, and that she wanted information about the decision not to renew her contract

before she would accept the payment. However, Mrs. Linklater proceeded to sign the Release and receive the payment.

[32] The OLCN called Alicia Waskewitch as a witness. In 2021, Ms. A. Waskewitch was the OLCN's interim Human Resources Director. She testified that, in preparing the Release, she had discussions with Mrs. Linklater about an offer of a severance payment based on her years of service. Ms. A. Waskewitch said that she then calculated the amount with her colleague, Elizabeth Waskewitch, and got approval for the amount from senior human resource employees. After that, she contacted Mrs. Linklater, informed her about the amount, and asked her to come to the OLCN's human resources office where the Release and the payment would be available. She did not remember Mrs. Linklater referring to any concerns about the Release. Ms. A. Waskewitch confirmed that Mrs. Linklater accepted the payment from the OLCN.

[33] The OLCN also called Elizabeth Waskewitch as a witness. Ms. E. Waskewitch is a human resources administrator for OLCN, with twelve years of experience in that position. She testified that, on June 29, 2021, Mrs. Linklater came to the OLCN's office and signed the Release in front of her. Ms. E. Waskewitch signed the Release as a witness to Mrs. Linklater's signature. She did not remember having any discussions with Mrs. Linklater either before or after she signed the Release.

[34] Mrs. Linklater's submissions do not refer to events related to the Release.

[35] Alicia and Elizabeth Waskewitch are experienced OLCN administrators. I am satisfied that they were not involved in the conflict between Mrs. Linklater and her cousins. I find that their testimony about their roles in the preparation and signing of the Release was credible and reliable.

[36] The Commission's position is that the Release precludes Mrs. Linklater from pursuing the allegation about the termination of her employment in 2021, but that it does not prevent her from proceeding with the allegation about the OLCN's decision in 2022, after the Release was signed, to end her substitute teaching work. The Commission argues that, for an agreement to be unenforceable because a party was compelled to enter into it by duress, economic or otherwise, the pressure to enter the agreement must be "pressure that

the law regards as illegitimate,” and it “must be applied to such a degree as to amount to ‘a coercion of the will’ of the party relying on the concept” (see *Cawson v. Air Canada*, 2015 CHRT 17 at para 35, citing *Taber v. Paris Boutique & Bridal Inc. (Paris Boutique)*, 2010 ONCA 157 at para 9). The Commission submits that the circumstances that Mrs. Linklater faced at the time of signing the Release do not reach the threshold of “a coercion of the will” and does not void the Release.

[37] The OLCN argues that, where the literal and ordinary meaning of a release demonstrates a clear intention to fully and finally release a respondent from all claims, it should not be easily disturbed (see *Pavao v. Speedy Self Storage Inc.*, 2021 HRTO 32 at para 15, citing *Better Beef Ltd. v. MacLean*, 2006 CanLII 17930 (ON SCDC) at paras 46–48). The OLCN agrees with the Commission’s submission that the Release prevents Mrs. Linklater from proceeding with the allegation about its decision in 2021 not to renew her teaching contract. The OLCN asks that this part of the complaint be dismissed.

[38] I agree with the Commission and the OLCN’s submissions on this point. There is “a strong public policy interest in encouraging parties to resolve their disputes on a voluntary, consensual basis,” and “[this] public policy would be severely undermined if parties who had entered into a final settlement of their human rights dispute were, absent public policy considerations to the contrary, permitted to come forward and pursue a complaint before the Tribunal” (see *Kelly v. Mohawk Council of Kahnawake*, 2008 CHRT 42 at para 23).

[39] In my view, the Release is clear. Mrs. Linklater understood it, and she signed it voluntarily without “coercion” of a type that might justify voiding it. Mrs. Linklater also received payment in exchange for signing the Release. I find that the Release is valid, and it prevents Mrs. Linklater from pursuing her complaint about the OLCN’s decision in 2021 not to renew her employment contract. For these reasons, I dismiss the allegations in Mrs. Linklater’s Retaliation Complaint about the OLCN’s decision not to renew her contract.

[40] However, I find that the Release does not apply to the allegations about the OLCN’s decision to end Mrs. Linklater’s substitute teaching work. The Release applies only to employment matters that existed “up to” June 29, 2021, when it was signed. The decision

to end Mrs. Linklater's substitute teaching work is alleged to have occurred in 2022. These allegations may proceed.

V. ANALYSIS

A. Legal Framework

[41] It is a discriminatory practice for a person against whom a human rights complaint has been filed, or any person acting on their behalf, to retaliate against the individual who filed the complaint (section 14.1 of the CHRA). Unlike human rights complaints that are based on a prohibited ground of discrimination, a complaint about retaliation is founded on the fact that a previous human rights complaint has been filed (see *Iron v. Canoe Lake Cree First Nation*, 2024 CHRT 81 at para 18 [*Iron*]; and *Millbrook First Nation v. Tabor*, 2016 FC 894 at para 60 [*Millbrook*]).

[42] A complainant alleging retaliation bears the burden of proving, on a balance of probabilities, that:

- 1) They filed a complaint under the CHRA;
- 2) They experienced an adverse impact after filing their human rights complaint;
and
- 3) The human rights complaint was a factor in the adverse impact(s).

(see *First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)*, 2015 CHRT 14 at para 5 [*First Nations Child & Family Caring Society*].)

[43] These three elements, when proven, are referred to as *prima facie* discrimination.

[44] To prove the third step of a *prima facie* case of retaliation, a complainant must establish a connection between a previously filed human rights complaint and the adverse impact following the complaint. It is not necessary to prove that the human rights complaint was **the cause** of the adverse impact, or was **the sole reason** for it (see *Iron* at para 19).

[45] It is also not necessary to prove that a respondent intended to retaliate (see *Quebec (Commission des droits de la personne et des droits de la jeunesse) v. Bombardier Inc.*, 2015 SCC 39, [2015] 2 SCR 789 at para 40 [*Bombardier*]). Direct evidence of discrimination is not required and discrimination is often not obvious or clear. For this reason, in a retaliation case, the Tribunal must consider whether to draw inferences from the evidence to conclude, on a balance of probabilities, that the human rights complaint was a factor in any adverse impact(s). Considered together, these principles mean that when the evidence supports an inference on the balance of probabilities, a “subtle scent” of discrimination can be sufficient to establish the required connection (see *Canada (Human Rights Commission) v. Canada (Attorney General)*, 2024 FC 1404 at para 19; and *Basi v. Canadian National Railway*, 1988 CanLII 108).

[46] The Tribunal may also consider a complainant’s reasonable perception that a respondent’s action was retaliation for filing a human rights complaint against them (see *Iron* at para 19, citing *Millbrook* at paras 63–64). However, the Tribunal must measure the reasonableness of a complainant’s perception so that a respondent is not held accountable for a complainant’s unreasonable anxiety or undue reaction (see *First Nations Child & Family Caring Society of Canada* at para 8; and *Wong v. Royal Bank of Canada*, 2001 CanLII 8499 at para 219).

[47] A recent judicial review decision by the Federal Court, *SM v. Canada (Attorney General)*, 2025 FC 1893 [*SM*], issued on 27 November 2025, discusses the *prima facie* test for discrimination. Since this decision was issued after the conclusion of submissions in this case, I invited the parties to supplement their submissions.

[48] The Commission submits that:

- (1) there is a low threshold for proving a *prima facie* case, and Mrs. Linklater has proven a *prima facie* case of retaliation;
- (2) after proving the *prima facie* case, the burden of proof shifts to the OLCN to prove an alternate, non-discriminatory explanation for its conduct; and

(3) The OLCN has not met its burden of proving an alternate, non-discriminatory explanation for its conduct.

[49] The Commission argues that *SM* affirms a low threshold to prove a *prima facie* case of retaliation (see *SM* at para 60).

[50] The Commission submits that, in *SM*, the Federal Court concluded that the Tribunal brought into the *prima facie* analysis an evaluation of whether the respondent's actions in that case were justified. The Commission also relies on *SM* for the proposition that, in this case, the Tribunal must first determine whether the Complainant's evidence and submissions, on their own and without consideration of the Respondent's evidence and submissions, are enough to support the conclusion that the Complainant filed a complaint, experienced an adverse impact, and that the complaint was a factor in the adverse impact. The Commission submits that the Tribunal must conduct this type of analysis before it can consider the evidence or submissions advanced by the Respondent. The Commission's position is that, only after a finding of *prima facie* discrimination based on the Complainant's evidence and submissions alone, may the Tribunal assess whether the Respondent can refute, on a balance of probabilities, the *prima facie* case of discrimination.

[51] The Respondent agrees that, in *SM*, the Court found that the Tribunal erred by conflating the *prima facie* analysis with the analysis of the respondent's justifications. The parties also agree that *SM* explained the tests and burdens to be applied based on *Bombardier*. I note that the Federal Court stated that a human rights tribunal must consider all the evidence, that the burden of proving a *prima facie* case rests with a complainant, and that the applicable standard is a balance of probabilities (see *SM* at para 51).

[52] In the analysis of a complainant's *prima facie* allegations in a case of alleged retaliation, the balance of probabilities requires that the Tribunal member be satisfied that it is more likely than not that the complainant filed a human rights complaint, experienced an adverse impact, and that filing the human rights complaint was a factor in the adverse impact. *Bombardier* clarifies that a complainant must satisfy the Tribunal that they have proven these three elements, on a balance of probabilities (see *Bombardier* at paras 56–

59). The Supreme Court rejected the submission that a lower threshold than a balance of probabilities applies in considering whether *prima facie* discrimination has been established (see *Bombardier* at paras 57–59).

[53] Accordingly, in my view, Tribunal decisions predating *Bombardier* that refer to a lower standard of proof than the balance of probabilities for proving a *prima facie* case, including decisions that the Commission’s submissions rely upon (see *Day v. Canada Post Corp*, 2007 CHRT 43 at para 33; and *Hughes v. Elections Canada*, 2010 CHRT 4 at 45), are not consistent with the Supreme Court’s analysis and findings in *Bombardier*.

[54] I agree that *SM* cautions against conflating a complainant’s burden to establish a *prima facie* case with a respondent’s burden to justify its conduct under section 15 of the CHRA. In *SM*, the complaint was brought under section 7 of the CHRA, which allows for defences under section 15. By contrast, retaliation under section 14.1 of the CHRA does not attract a statutory defence. This conflation cannot occur in cases where a respondent may only provide evidence and submissions regarding whether the complainant has made out their *prima facie* case.

[55] A respondent may provide evidence and submissions attempting to show that a complainant has not made out a *prima facie* case, based on the position that the complainant has not established a connection between a prohibited ground (or, as in this case, alleged retaliation) and the adverse impact on them. This may include evidence and submissions aiming to establish that something else fully explains the adverse impact.

[56] In this case, the Respondent argues that the Complainant did not adduce sufficient evidence to prove a *prima facie* case of discrimination. As *Bombardier* states, a respondent may introduce evidence and submissions to “refute the **allegation** of *prima facie* discrimination” (*Bombardier* at para 64, emphasis added) or, as in the case before me, to refute the allegation of *prima facie* retaliation.

[57] In following *Bombardier*, the Tribunal must consider the Respondent’s evidence about the *prima facie* case, if any is adduced, before concluding whether the Complainant has met her burden of proving a *prima facie* case. Doing so is also consistent with the analysis in *Bombardier*, where the Supreme Court considered the submissions of the

respondent, Bombardier, that the appellants had not proven a *prima facie* case of discrimination **before** it decided that the appellants had not established a connection between adverse treatment and the appellant's protected characteristic of race (see *Bombardier* at paras 74–97).

[58] Accordingly, in the case before me, I must consider all the evidence and be satisfied, on a balance of probabilities, that the Complainant has made out the three elements of the *prima facie* case. Applying *Bombardier*, I consider all the evidence in assessing whether the Complainant has proven, on a balance of probabilities, each of the three elements that are required to substantiate a complaint of retaliation under the CHRA (see *Kim v. Correctional Service Canada*, 2025 CHRT 39 at paras 55 and 56).

B. Credibility findings

[59] Much of this case turns on my findings of fact related to the alleged incidents and my assessment of credibility. There is evidence about a longstanding family dispute, marked in part by disagreements about the use of the Masson Lands. There is also evidence of other situations of personal conflict involving Mrs. Linklater. These dynamics contributed to differing accounts about the events at issue. Where it is necessary to resolve a conflict in the evidence, I provide my reasons below regarding each issue.

[60] In assessing the credibility and reliability of testimony, I have applied the traditional test set out by the by the British Columbia Court of Appeal in *Faryna v. Chorny*, 1951 CanLII 252 (BC CA).

[61] In a family and community context such as this one, the history of family and community conflict may shape perceptions of events. I have assessed the credibility and reliability of the evidence with careful attention to how these conflicts may have influenced the recollection and interpretation of events.

[62] I accept that Mrs. Linklater testified honestly and to the best of her abilities. However, I find that, at times, the history of family and community conflict diminished the reliability of Mrs. Linklater's testimony. The reasons below identify where this occurred.

[63] I also find that Mr. H. Pahtayken's recollection of certain events was, at times, not reliable and his statements were inconsistent with the testimony of other witnesses. These reasons identify where I have given less weight to his testimony than to the testimony of other witnesses.

[64] By contrast, other witnesses, who were not directly involved in the history of family and community conflicts, provided testimony that I find to be more consistent with, and corroborated by, other sources of evidence. For these reasons, I have generally found the evidence of the independent witnesses to be more credible, as indicated below.

C. Issue 1: Did Mrs. Linklater file a human rights complaint against the OLCN?

[65] Yes. The OLCN's submissions acknowledge that Mrs. Linklater filed the 2017 Complaint and admit that this element of the legal test is met.

[66] The Commission's submissions make one reference (in paragraph 74) suggesting that the Retaliation Complaint in 2020 could also be the source of the alleged retaliation. The Commission has not taken this position before.

[67] The OLCN submits that it would be procedurally unfair to permit this expansion of the scope of the complaint after the hearing has been completed.

[68] I agree with the OLCN's submission. The parties' SOPs clearly establish that the issue in dispute is whether the OLCN retaliated against Mrs. Linklater because she had filed the 2017 Complaint. I confirmed this scope with the parties at the beginning of the hearing. I do not allow a change in the scope of this complaint.

D. Issue 2: Did Mrs. Linklater experience an adverse impact or adverse impacts after she filed the 2017 Complaint?

[69] I consider each alleged act of retaliation separately.

(i) After filing the 2017 Complaint, did Mrs. Linklater experience an adverse impact related to the installation of the roadblocks?

[70] Yes.

[71] Mrs. Linklater's testimony satisfies me that she experienced the blocking of the Boundary Road as a significant obstacle to being able to use the Masson Lands as she wished. This satisfies me that Mrs. Linklater experienced adverse impacts related to the OLCN's installation of the roadblocks.

[72] The evidence established that the Masson Lands held significant personal and familial importance for Mrs. Linklater, and that the roadblocks on the Boundary Road resulted in impacts that were substantial and adverse. I give significant weight to Mrs. Linklater's testimony on this issue. I accept that she wanted to use the Masson Lands for birthday celebrations and family gatherings but she could not do so, or would have been significantly impacted in doing so, when the roadblocks were in place. I also accept the testimony that the installation of the roadblocks affected Mrs. Linklater's relationships with her siblings.

[73] The OLCN submitted that Mrs. Linklater did not prove that she experienced an adverse impact related to the Boundary Road roadblocks. I disagree.

[74] I accept that, as part of the state of emergency that the Chief and Council declared in January 2020, the OLCN installed roadblocks on many roads on the Reserve. The only relevant roadblocks for this case were on the Boundary Road, to the north and south of the entrance to the Masson Lands. The roadblock to the south of the Masson Lands entrance was close to the entrance to Hubert Pahtayken's house. During the hearing, this roadblock was referred to as Roadblock A but I refer to it here as the "South Roadblock." The roadblock to the north of the Masson Lands' entrance was near the home of OLCN member Angus Chief. It was referred to as Roadblock B during the hearing, but I refer to it here as the "North Roadblock."

[75] The parties agree that the OLCN installed these roadblocks in 2020. The parties also agree that, in about June 2021, the OLCN replaced the roadblocks with gates, and that, in about September 2021, it removed the gates.

[76] Mrs. Linklater's SOP indicates that she was living on the Masson Lands in 2020 when the OLCN installed the roadblocks. Her written submissions also state that "[d]espite being blocked from my land, I am embarrassed to say I continued to live there on my private property," and that "I eventually moved my children to a warm house as we couldn't always find the person to bring and haul wood for us."

[77] However, Mrs. Linklater testified that she lived in Lloydminster as of September 2018 and that she lived there during the pandemic. The documentary evidence also includes an email indicating that Mrs. Linklater rented a residential property from September 2018 to August 2019. It also includes an agreement that Mrs. Linklater and her son signed to rent another residential unit from September 1, 2019, to September 30, 2020, and which was renewed annually until September 30, 2023. Mrs. Linklater's testimony and these documents satisfy me that she moved to Lloydminster in 2018 and continued to live there while the roadblocks were in place.

[78] Mrs. Linklater's SOP states that access to her property "has been completely blocked for extended periods" and that the roadblocks made her property "completely inaccessible." She also testified that the roadblocks entirely blocked her access to the Masson Lands, and that she could not get to the Masson Lands from the north or the south.

[79] Mrs. Linklater testified that she planned to continue renovating the trailer on the Masson Lands, but the roadblocks delayed her from doing the work. She said that her father had previously obtained supplies for the renovations. Mrs. Linklater also purchased supplies in 2019 and stored them on the property.

[80] However, there is some evidence that the North Roadblock did not entirely block Mrs. Linklater's access to the Masson Lands, as follows:

- 1) On October 6, 2020, Mrs. Linklater sent a letter dated October 5, 2020, complaining about the roadblocks, to Philip Chief, the OLCN's Director of

Operations at the time. She asked that the South Roadblock be moved to another location, saying "...I have a right to enter my premises from the south side where the good road is," and that "...I should not have to be forced to use a road that will damage my car." The letter satisfies me that Mrs. Linklater could access the Masson Lands from the north, but that doing so would have required her to drive on a lower quality road. In the OLCN's cross-examination, Mrs. Linklater agreed that she said in her letter that there was another road into her property, but it was not as good as the road that she wanted to use.

- 2) Hubert Pahtayken testified that the North Roadblock did not completely block the road, and that a person could go around it. He also said that there was another road that accessed the Masson Lands and that a regular vehicle could drive on it. This testimony conflicts with Mrs. Linklater's testimony that she could not drive around the North Roadblock.
- 3) Ivan Harper was the OLCN's Justice Director. In January 2020, the Chief and Council named him to be the commander of the Incident Management Team for the state of emergency. He had previously been an OLCN Councillor, and he was later re-elected as a Councillor.
- 4) Mr. Harper testified at the hearing. He was not aware of the North Roadblock. However, on being shown a photograph of the North Roadblock, he said that it looked like a car could get around it.
- 5) Mr. Harper also testified about a telephone conversation he had with Mrs. Linklater after the roadblocks on the Boundary Road were installed. He remembers telling her that she could access her property from the north, "by the Chief side." However, Mr. Harper said that he was not aware of the North Roadblock. His testimony that a vehicle could drive around the roadblock was based on looking at a photograph of the North Roadblock that is in evidence.

[81] My view of Mrs. Linklater's and Mr. H. Pahtayken's testimonies on this issue is that they were influenced by their history of conflict. For this reason, I give little weight to their testimonies on this issue. However, I find that Mr. Harper's testimony was not influenced by the conflict between Mrs. Linklater and Mr. H. Pahtayken. I find his testimony on this point to be credible and reliable. Although Mr. Harper's testimony that a car could drive around

the roadblock was based only on reviewing the photograph in evidence of the North Roadblock, I find his testimony on this point to be more reliable than the testimonies of Mrs. Linklater and Mr. H. Pahtayken.

[82] Considering all the evidence, I find that, despite the roadblocks, it was possible for Mrs. Linklater to access the Masson Lands on the lower quality road from the north, or to drive around the North Roadblock. That said, I do not agree with the OLCN's submission that the roadblocks created only "a minor inconvenience" for Mrs. Linklater.

[83] To access the Masson Lands while the roadblocks were in place, Mrs. Linklater would have had to take a much longer route on a lower quality road. As also noted above, I accept that the Masson Lands held significant personal and familial importance for Mrs. Linklater. I give significant weight to Mrs. Linklater's testimony that she wanted to use the Masson Lands for birthday celebrations and family gatherings but that the roadblocks impacted her ability to do so. I find that the roadblocks prevented Mrs. Linklater from gaining easy access to the Masson Lands. The effect of the roadblocks was impacts that were substantial and adverse.

[84] The OLCN submits that the evidence about its reasons for installing the roadblocks should be considered. I agree, but I do not consider this evidence in deciding whether Mrs. Linklater experienced an adverse impact. I consider the evidence of the OLCN's reasons for the roadblocks below, in the analysis of whether the 2017 Complaint was a factor in the adverse impacts that Mrs. Linklater experienced.

[85] Based on the evidence, I am convinced that, although Mrs. Linklater could have accessed the Masson Lands from the north with difficulty, she experienced an adverse impact due to the installation of the roadblocks.

(ii) After filing the 2017 Complaint, did Mrs. Linklater experience an adverse impact related to statements that she was "a trespasser" and "an outsider"?

[86] No.

[87] Mrs. Linklater alleges, and the Commission concurs, that during the October 13, 2020, Chief and Council meeting that she attended to discuss the roadblocks, Councillors Hubert and Walter Pahtayken called her an “outsider” and a “trespasser” and ridiculed her. However, Mrs. Linklater’s evidence is not sufficient to convince me, on a balance of probabilities, that either Hubert or Walter Pahtayken made these statements during this Chief and Council meeting.

[88] Mrs. Linklater testified that, during the Chief and Council meeting, she asked how long the roadblocks would be in place, and that Walter Pahtayken said that she did not live on the Masson Lands anymore and that she had abandoned the property. Mrs. Linklater also testified that Hubert Pahtayken said that she did not live on the property anymore, and that she would be trespassing if she used the road to get there.

[89] Mrs. Linklater testified that Hubert Pahtayken’s statements made her feel like an outsider, but her testimony about the October 13, 2020, Chief and Council meeting does not satisfy me that anyone called her an “outsider” during the meeting. There are references in Mrs. Linklater’s later correspondence to “being constantly referred to as an outsider and trespasser” (in a letter dated May 4, 2021), to being called “outsider” (in an email dated June 10, 2022), and that “they call us outsiders and trespassers” (in undated Facebook posts).

[90] I accept that Mrs. Linklater genuinely experienced a sense of disconnection from the OLCN community and of feeling like an outsider. However, the issue before me is whether Mrs. Linklater’s evidence establishes that specific statements were made at a Chief and Council meeting on October 13, 2020. In my view, Mrs. Linklater’s testimony and the references that she made in 2021 and 2022 about these statements are not sufficient to satisfy me that Hubert or Walter Pahtayken made these statements on October 13, 2020.

[91] The minutes of the October 13, 2020, Chief and Council meeting do not support Mrs. Linklater’s testimony about the discussions during the meeting. They state that Mrs. Linklater was requesting that the roadblocks be moved further north “...so she may access her driveway.” The minutes say that a roundtable discussion took place, which is summarized as “...currently she is not living there but plans to add a house in the future. Recommending to leave [as-is] for the time being to decrease gang traffic.” A second reference to a

roundtable discussion states "...recommending to leave [as-is] in the meantime contact the [Regional Municipality of Frenchman Butte] and clarify the mapping of their borders as the blockade is on the [Nation's] land."

[92] Mrs. Linklater testified that the minutes do not accurately record what was discussed during the meeting, although she acknowledged that the Chief and Council might have discussed these matters after she left the meeting.

[93] Hubert Pahtayken was present at the Chief and Council meeting. He testified that he did not remember anyone being upset during the meeting and that he does not recall any arguments about the roadblocks.

[94] As described, Mrs. Linklater and Mr. H. Pahtayken have a difficult relationship based, at least to some extent, on family history. Mrs. Linklater accused Mr. H. Pahtayken during the hearing of not giving honest testimony. In my view, the dynamics of the personal relationship between Mrs. Linklater and Mr. H. Pahtayken played a role that affected the testimony that they both gave. For this reason, I find that neither witness' testimony is reliable on this contested point. I give limited weight to their testimony.

[95] To find that Mrs. Linklater experienced an adverse impact from statements that were made during the Chief and Council meeting, I must be satisfied that it was more likely than not that the statements were made. However, Mrs. Linklater's testimony was not sufficiently clear that either Hubert or Walter Pahtayken made these statements on that day.

[96] Mrs. Linklater's testimony is also the only evidence supporting her recollection of the events in the Chief and Council meeting. The documentary evidence does not corroborate her account. It is not sufficient to prove what was said. There were no other witnesses called to support this allegation, and no supporting documents other than Mrs. Linklater's later correspondence. I acknowledge the difficulty in proving this allegation, but it is Mrs. Linklater's case to prove, and the evidence does not satisfy me that she has proven this allegation.

[97] I am not satisfied, on a balance of probabilities, that these comments were made. For these reasons, the allegation that Mrs. Linklater experienced an adverse impact cannot succeed. Accordingly, this allegation of retaliation is dismissed.

(iii) After filing the 2017 Complaint, did Mrs. Linklater experience an adverse impact related to a decision about her employment?

[98] Yes.

[99] Mrs. Linklater worked for the Onion Lake Education Administration (the “Education Administration”) for 13 years. She worked as a teacher and an English Language Arts Catalyst, which is a specialist position to assist schools in meeting educational goals.

[100] The OLCN made two decisions involving Mrs. Linklater’s employment. However, based on the June 29, 2021, Release, I have dismissed the allegations about its decision not to renew Mrs. Linklater’s contract.

(a) The decision to end Mrs. Linklater’s substitute teaching work

[101] Mrs. Linklater testified about the impacts that she experienced due to the OLCN’s decision to end her substitute teaching work. It affected her financial stability, her mental health, and her sense of belonging to the community. I accept and give considerable weight to this portion of the Mrs. Linklater’s testimony.

[102] The OLCN agrees in its submissions that the decision not to permit Mrs. Linklater to continue substitute teaching could amount to adverse treatment. Based on the parties’ agreement on this issue and the evidence before me, I find that Mrs. Linklater experienced adverse impacts due to the OLCN’s decision to end her substitute teaching work.

(iv) Conclusion about adverse impacts

[103] I conclude that Mrs. Linklater experienced adverse impacts due to the installation of roadblocks on the Boundary Road and due to the OLCN’s decision to end her substitute teaching work.

E. Issue 3: Was Mrs. Linklater's 2017 Complaint a factor in the adverse impacts that she experienced?

[104] For each allegation in which I have found that Mrs. Linklater experienced an adverse impact, I consider whether the 2017 Complaint was a factor.

(i) Was the 2017 Complaint a factor in the adverse impact related to the OLCN's installation of roadblocks?

[105] No. The evidence does not satisfy me that it was more likely than not that the 2017 Complaint was a factor in the adverse impact that Mrs. Linklater experienced from the OLCN's installation of the North and South Roadblocks.

[106] Mrs. Linklater testified that another teacher told her about the roadblocks in May 2020, and that, in June 2020, she started asking the OLCN to remove them.

[107] However, the first document referring to Mrs. Linklater's concern about the roadblocks is her letter dated October 5, 2020, sent by email on October 6, 2020, to Philip Chief. It states that "I understand the repercussions of gang related, drug trafficking and substance abuse to warrant the blockade, but it doesn't have to happen this way to block me off completely." Mrs. Linklater states that she should not be told "what road to use and how to access my property," and that "I am not opposing the blockade. I just need access to my place." The email states that she had not abandoned her land, that she was moving a new home to the property, and that she would resort to a court order if the roadblock was not relocated.

[108] This letter confirms that Mrs. Linklater was aware of the OLCN's stated reasons for installing the roadblock. I also note that this first piece of correspondence between Mrs. Linklater and the OLCN about the roadblocks does not refer to or suggest that the 2017 Complaint might have been a reason for the installation of the roadblocks.

[109] One week later, on October 13, 2020, Mrs. Linklater attended a Chief and Council meeting to discuss this issue. The minutes say that Mrs. Linklater was requesting that the blockades be moved further north so she could access her driveway. The minutes also say

that Mrs. Linklater is not currently living on the property but plans to add a house to it in the future. The minutes say that the Chief and Council decided to leave the blockade where it was “for the time being to decrease gang traffic in that area...” and that “once she moves her home then blockades will be moved.”

[110] Mrs. Linklater testified that, during the time that she was present at the Chief and Council meeting, no one said that the OLCN would move the roadblocks if she moved to the Masson Lands, and that no one told her that later. In hindsight, ensuring that Mrs. Linklater was aware of the OLCN’s decisions about the roadblocks might have prevented this dispute. However, in my view, whether Mrs. Linklater knew about this Chief and Council decision does not suggest that the 2017 Complaint was a factor in the OLCN’s decision to install the roadblock.

[111] The reference in the October 13, 2020, minutes of the Chief and Council meeting to Mrs. Linklater’s request “to move the blockades further north [past] her approach so she may access her driveway” also suggests that the North Roadblock might not have been installed yet. I return to this issue below.

[112] On October 28, 2020, two weeks after the October 13, 2020, Chief and Council meeting, Mrs. Linklater filed the Retaliation Complaint with the Commission. The complaint form states Mrs. Linklater’s allegation that “Hubert Pahtayken and Walter Pahtayken have been after my land because they feel it belongs to them, to the [R]eserve.”

[113] On November 18, 2020, the Chief and Council met again. It agreed to a proposal from Hank Montana, an OLCN member, to open a gate during the day that had been blocking a road in his area so that a school bus could pick up his children. Mrs. Linklater testified that it was unfair that the OLCN agreed to Mr. Montana’s request to open a road but not to her request. However, I accept that this decision was based on different circumstances. The fact that the OLCN agreed to a daytime opening of a blocked road so that a school bus could pick up children who lived on the Reserve is significantly different from the issue of whether to relocate a roadblock so that Mrs. Linklater could gain access to her property. In my view, the OLCN’s decision on November 18, 2020, does not support Mrs. Linklater’s contention that it treated her unfairly. More to the point, the Chief and

Council's decision on November 18, 2020, does not support an inference that the 2017 Complaint was a factor in the decision to install the roadblocks on the Boundary Road.

[114] During the hearing, Mrs. Linklater testified that a reason why the OLCN installed the roadblocks was the conflict with Hubert Pahtayken about the Masson Lands. Mrs. Linklater's closing submissions argue that the retaliation that she experienced "should not be viewed as a personal matter by my cousins, who are trying to exclude me from the [R]eserve and threaten my employment" but that "their influence over power encompasses their fellow council members and the Chief, who is connected to the Pahtayken brothers through marriage."

[115] I turn to the OLCN's evidence and submissions.

[116] As described above, the OLCN declared a state of emergency in 2020, which led to the installation of roadblocks to prevent gang members from using the Reserve's roads for illegal purposes.

[117] Hubert Pahtayken and Ivan Harper testified about the OLCN's reasons for installing the roadblocks. Mr. Harper was responsible for coordinating the Incident Management Team for the state of emergency. He was not a party to the personal conflict involving Mrs. Linklater and Hubert and Walter Pahtayken about the Masson Lands. I found Mr. Harper's evidence to be credible and reliable. I give significant weight to his testimony.

[118] Mr. Harper said that the OLCN's decision-making about the roadblocks was about preventing gang members from entering the Reserve and blocking the roads to do so.

[119] The Commission submits that Hubert Pahtayken, in his position of Councillor on the Chief and Council, could give orders and directives about the roadblocks, and that he testified that he gave the "go ahead" to install the North Roadblock. However, I give more weight to Mr. Harper's evidence that he and the Incident Management Team were responsible for deciding where to install the roadblocks, and that, other than for one exception that is referred to below, the Chief and Council were not involved in the decision-making about them.

[120] Regarding the timing of installing the roadblocks, a document attached to the minutes of the October 13, 2020, Chief and Council meeting confirms that the first five roadblocks on Reserve roads were installed on January 30, 2020. These are not the roadblocks that are the subject of this complaint.

[121] The April 1, 2020, minutes of the Chief and Council meeting refer to the state of emergency, including the “lockdown of the entry ways.” Mr. Harper testified that the minutes accurately described the status of the situation at that time.

[122] Later, a series of emails from August 24 to 26, 2020, discussed a proposal to block the Boundary Road near Hubert Pahtayken’s yard due to an increase in road traffic, high-speed traffic, and car chases, and to avoid safety risks for children in the area. These emails are about the South Roadblock.

[123] In Mr. Harper’s email reply, he agreed that the road had become increasingly dangerous, that “things will quiet down” on both sides of this proposed additional roadblock, and that the roadblock has the potential to help the OLCN in its state of emergency road blockage initiatives. The emails confirm that signs for the roadblocks had been ordered and that the roadblocks would be installed when the signs were ready. Mr. Harper asked that he be informed “when everything is a go” so he could inform the RCMP and other authorities. Mr. Harper testified that this roadblock was installed in about September or October 2020.

[124] Mrs. Linklater testified that another teacher told her about the roadblocks in May 2020. However, Mr. Harper’s testimony about the installation of the South Roadblock is more consistent with the documents in evidence, and I place greater weight on his evidence about the roadblocks than on Mrs. Linklater’s testimony. Based on all the evidence on this issue, I am satisfied that it was more likely than not that the OLCN installed the South Roadblock in about September or October 2020.

[125] Mr. Harper’s testimony about the timing of installing the South Roadblock is also consistent with the timing of Mrs. Linklater’s first written complaint to the OLCN on October 6, 2020.

[126] Mr. Harper also testified about a conversation that he had with Mrs. Linklater after the South Roadblock was installed. He did not remember the date, but he testified that Mrs. Linklater said that the roadblock was impeding access to her trailer, and that he explained that the OLCN installed the roadblock because the road had become a “drug and gang highway.”

[127] I accept Mr. Harper’s testimony about why the OLCN installed the South Roadblock. It is consistent with the documentary evidence. All the evidence persuades me that the OLCN installed the South Roadblock as a response to the issues that led to the declaration of a state of emergency in 2020.

[128] On October 6, 2020, Philip Chief sent Mrs. Linklater’s October 5, 2020, letter, referred to above, to the Chief and Council. He wrote that Mrs. Linklater is “requesting to move [the] blockade further north approximately 400 yards to the Texas gate by her approach so she can access her land.”

[129] On October 13, 2020, Mrs. Linklater attended the Chief and Council meeting, also referred to above, to ask that the roadblocks be moved. The minutes appear to summarize the discussions and the Chief and Council’s decision to leave the blockade where it was “for the time being to decrease gang traffic in that area...” and that “once she moves her home then blockades will be moved.”

[130] Mrs. Linklater testified that the Council’s reference to her not living on the property was correct. She also said that, while she was present at the Chief and Council meeting, no one said that the OLCN would move the roadblocks if she moved to the Masson Lands, but she did acknowledge that the Chief and Council might have discussed these matters after she left the meeting.

[131] Hubert Pahtayken testified that he was present, as a Councillor, at the Chief and Council meeting. His testimony about this part of the meeting is consistent with the information in the minutes.

[132] I find that the information in the October 13, 2020, minutes logically follows from the request in Mrs. Linklater’s October 5, 2020, that the roadblock be relocated, and from Mr.

Chief's follow-up email about this request to OLCN leadership on October 6, 2020. Based on Mrs. Linklater's acknowledgment that the discussions noted in the minutes might have taken place after she left the meeting, there is no conflict between her testimony and Mr. H. Pahtayken's testimony about these discussions. There is no reasonable basis for me to infer that minutes are incorrect on this point or that the discussions did not occur. I accept that the Chief and Council held the discussions and made the decisions that the minutes describe.

[133] The Commission submits that the Chief and Council's decision that it would move the roadblock if Mrs. Linklater moved to the property is a pretext, because she was employed on the Reserve and was conducting renovations to the house on the property.

[134] With respect, I disagree. The evidence confirms that, at the time in question, Mrs. Linklater was not living on the Masson Lands and had not lived there since 2018. Mrs. Linklater testified that she wanted to continue renovations but could not do so due to the roadblocks, but the evidence does not satisfy me that the Chief and Council knew that Mrs. Linklater wanted to renovate the trailer on the property. Mrs. Linklater's October 5, 2020, letter said that she was moving a new home to the property, not that she wanted to renovate the existing trailer. In my view, based on the information that the Chief and Council had in October 2020, the decision to move the roadblocks "once she moves her home" was a reasonable response.

[135] The evidence satisfies me that, at that time, the North Roadblock had not been installed yet. Mrs. Linklater's October 5, 2020, letter asks that the roadblock located south of her entrance, near Hubert Pahtayken's house, be moved "down the hill from my place," where it would still block "entrance through that road leading to the flats" (which are north of the Masson Lands). Mrs. Linklater stated that she could then "enter my premises from the south side where the good road is."

[136] Mr. Chief's email on October 6, 2020, to OLCN leadership states that Mrs. Linklater is asking that the blockade that is located "just north from [Councillor] Hubert [Pahtayken's] home" be moved further north "so she can access her land."

[137] The evidence satisfies me that all discussions to this point about the installation of the roadblocks on the Boundary Road, and Mrs. Linklater's request to relocate the roadblocks, involved only the South Roadblock. I find that access to the Masson Lands from the north had not yet been blocked.

[138] The evidence does not allow me to determine the approximate date when the North Roadblock was installed. Mr. Harper testified that he was not aware of the North Roadblock. His view was that it would not have made sense to install it, and he speculated that it might have been installed for a different purpose.

[139] Mr. H. Pahtayken testified about why the North Roadblock was installed. Mrs. Linklater disputed his evidence. Again, I am not satisfied that either version can be relied upon. As shown in the strained relations that were displayed at the hearing between Mrs. Linklater and Mr. H. Pahtayken, their conflict prevents me from giving weight to their evidence on this contested issue.

[140] Mr. Harper's testimony satisfies me that the Chief and Council were not involved in decision-making about the North Roadblock. He testified that the Chief and Council did not make the decisions about where to place the roadblocks. On cross-examination, he referred to one exception that is noted in the minutes of the Chief and Council's September 22, 2020, meeting. Mr. Harper explained that, at that meeting, he wanted the Chief and Council to approve six "check stops" that were to be located on the other side of the Reserve.

[141] Why the North Roadblock was installed is not clear, but there is no convincing evidence that Mrs. Linklater's 2017 Complaint was a factor in a decision of the Chief and Council, the Incident Management Team that Mr. Harper directed, or of anyone else associated with the OLCN, to install the North Roadblock. There is also no basis for me to infer that the 2017 Complaint was a factor for installing this roadblock.

[142] On January 28, 2021, the Chief and Council met again. The meeting minutes show that Mr. Harper attended. He informed the Chief and Council that Mrs. Linklater had concerns that the road to her land was blocked but that the reasons for doing so had been explained, and that she does not currently live on the property. I accept that Mr. Harper made these comments to the Chief and Council.

[143] I have considered all the evidence and the parties' submissions about the OLCN's installation of roadblocks on the Boundary Road.

[144] My view is that Mrs. Linklater is sincere in the allegations that she has made, but I must assess the reasonableness of her allegations. In my view, Mrs. Linklater's perception that her 2017 Complaint had a connection to the blocking of her access to the Masson Lands is not reasonable and is not supported by the evidence. The evidence satisfies me that the OLCN's only consideration for installing the roadblocks was its concerns about community safety, based only on the reasons for which it declared a state of emergency.

[145] The evidence does not establish on a balance of probabilities that the conflict involving Mrs. Linklater and Hubert and Walter Pahtayken had any connection to the installation of the roadblocks. I am also satisfied that Mrs. Linklater's 2017 Complaint was not a factor in the adverse impacts that she experienced from the OLCN's installation of roadblocks.

(ii) Was the 2017 Complaint a factor in the adverse impact related to ending Mrs. Linklater's substitute teaching work?

[146] No.

[147] As explained, Mrs. Linklater worked for many years as an elementary school teacher for the OLCN, but in 2021, the Chief and Council did not renew her contract for the 2021–2022 school year. Mrs. Linklater later asked Fred Dillon, the OLCN's Director of Education, if she could be on-call for substitute teaching work. Mr. Dillon agreed.

[148] Mrs. Linklater worked as a substitute teacher in December 2021, February 2022, and March 2022. However, in March 2022, Mark Pelly, the principal of the school at which Mrs. Linklater had been substitute teaching, told her that she could not continue to substitute teach there.

[149] Mrs. Linklater blamed Mr. Dillon for this decision. She testified that she saw Mr. Dillon going to Mr. Pelly's office, and, on the same day, Mr. Pelly told her that he could not continue to offer her substitute teaching work, and that this decision was coming from "higher up."

[150] Mrs. Linklater's belief that the termination of her substitute teaching work was retaliatory is understandable in isolation, based on the limited information that she had for this decision. However, in assessing this perception based on all the evidence and in the factual context of the OLCN's decision in 2021 not to renew her teaching contract, I find that Mrs. Linklater's perception of this event was not reasonable.

[151] Mr. Dillon testified as a witness. At the time of the hearing, he had been the Director of Education for approximately eleven years, after being a school principal for the OLCN for more than ten years. He was responsible for ensuring that the OLCN had high quality education. Mr. Dillon presented as sincere and consistent throughout his testimony. I found him to be a highly credible and reliable witness. He gave straightforward and even-handed answers to all questions. His testimony is consistent with the documentary evidence. I found his evidence helpful and deserving of significant weight. I also find that Mr. Dillon's testimony frequently supported Mrs. Linklater's testimony.

[152] Mr. Dillon testified that he made the decision to end Mrs. Linklater's substitute teaching work. As explained below, I accept his testimony about why he did so. Although he knew about the 2017 Complaint, his testimony satisfies me that the 2017 Complaint was not a factor in his decision.

[153] The OLCN's decision in 2021 not to renew Mrs. Linklater's teaching contract is important context for Mr. Dillon's decision in 2022 to terminate Mrs. Linklater's substitute teaching work. Although the Release that Mrs. Linklater signed on June 29, 2021, precludes liability for the OLCN's decision in 2021, I consider the evidence about it as context and to make findings about Mr. Dillon's decision in 2022.

[154] There is no dispute that, leading up to the OLCN's 2021 decision not to renew Mrs. Linklater's teaching contract, her work performance was strong and the Education Administration had no concerns. Owen Morris, the principal of the school at which Mrs. Linklater worked, testified that she performed well, and that he recommended that the OLCN renew her contract for the 2021–2022 school year. Mr. Morris also testified that this was the first and only time that the OLCN did not follow his hiring recommendation. While brief, I found Mr. Morris's testimony to be straightforward and credible.

[155] Like Mr. Morris, Mr. Dillon testified that Mrs. Linklater's work performance was strong and that he had no concerns. He said that Mrs. Linklater had strong leadership skills and that he relied on her as his "go-to" person when he was not available. In 2021, Mrs. Linklater also had a type of "tenure," meaning that the Education Administration did not need to conduct an evaluation of her performance before deciding to recommend that she be employed for another year.

[156] The Director of Education makes recommendations to the Chief and Council about whether a teaching contract should be renewed, but the OLCN's elected leadership has the authority to decide otherwise.

[157] On April 20, 2021, Mr. Dillon attended a Chief and Council meeting to provide his recommendations for contract renewals. There is conflicting testimony about what occurred in the meeting. I accept Mr. Dillon's testimony about what happened in the meeting based on my assessment of his credibility and reliability.

[158] Mr. Dillon testified that everything was in place to hire Mrs. Linklater for another year, and that he expected the Chief and Council to accept his recommendation to do so. He attended the Chief and Council meeting for, in his words, a "stamp of approval." However, the Chief and Council decided not to renew Mrs. Linklater's contract.

[159] Mr. Dillon testified that he was not expecting this outcome, that it caught him off-guard, and that it was the first time in his experience as the OLCN's Director of Education that the Chief and Council overturned his recommendation.

[160] The minutes of the April 20, 2021, Chief and Council meeting show that Mr. Dillon was present. In relation to education matters, the minutes state as follows:

"Employee update: No contracts were given out yet. They need to be approved. Round table discussion. No concerns on the employee's conduct at work. BCR [Band Council Resolution] and non-renewal request denied by consensus due to personal matter and to be referred to [mediation]."

[161] The Chief and Council met again on April 27, 2021. Again, the minutes show that Mr. Dillon was present. Regarding education contracts, the minutes only state that “[c]ontracts were sent out.”

[162] The minutes of these meetings have no information about the decision not to renew Mrs. Linklater’s contract, although Mr. Dillon testified that this occurred during the April 20, 2021, meeting. There is also conflicting testimony about what occurred in the meetings and how the decision not to renew Mrs. Linklater’s contract was made.

[163] Laurie Ann Jimmy testified at the hearing. Ms. Jimmy was the Chairperson of the April 20, 2021, Chief and Council meeting. Ms. Jimmy has worked for the OLCN in different capacities since 1994. In 2021, she was the OLCN’s Associate Director of Operations. She was elected as an OLCN Councillor in 2022. Ms. Jimmy testified that, although she kept detailed notes about Chief and Council meetings and she had checked her notes from this meeting, she did not remember what happened, and she could not find anything in her notes to jog her memory about the discussion regarding the education contracts. Ms. Jimmy’s testimony was brief. I accept that she testified credibly and reliably.

[164] Hubert Pahtayken was present at the April 20, 2021, meeting in his capacity of elected OLCN Councillor. Mr. H. Pahtayken testified that, at the meeting, Mr. Dillon said that the Education Department had contracts that it would not renew. Mr. H. Pahtayken said that he had faith that the directors of the OLCN’s programs acted diligently and in good faith. He remembered that Mr. Dillon brought in the minutes of the education meeting, but he did not remember the discussion in the meeting about the contracts.

[165] Mr. H. Pahtayken also did not remember what the references in the minutes to the Band Council Resolution, the “non-renewal request,” or the “personal matter” were about. He said that it is possible that he could have been called out of the meeting when this matter was discussed. He testified that he did not have any discussions with Mr. Dillon about Mrs. Linklater’s contract, either inside or outside of a Chief and Council meeting, and that he did not play any role in ending Mrs. Linklater’s employment. During Mrs. Linklater’s cross-examination of Mr. H. Pahtayken, he said that Mr. Dillon brought the Education Administration minutes to the Chief and Council meeting for approval, that he said who they

were hiring and not hiring, “and that was it.” Mr. H. Pahtayken did not know which contracts were renewed and not renewed. Mrs. Linklater put to Mr. H. Pahtayken that Mr. Dillon had informed her that the Chief and Council had decided not to renew her contract. Mr. H. Pahtayken replied that he did not know, and that “Fred [Dillon] will have to answer that.”

[166] There are major differences between Mr. Dillon’s and Mr. H. Pahtayken’s testimonies about what happened in the Chief and Council meeting. I prefer Mr. Dillon’s testimony. His recollection of the events was clear. Mr. H. Pahtayken’s recollection of events was not, and I give it no weight.

[167] Mr. Dillon said that he came to the meeting on April 20, 2021, with the intention of renewing Mrs. Linklater’s contract. He informed the Chief and Council that there was one person, which was not Mrs. Linklater, who he did not want to rehire. Mr. H. Pahtayken then said that there was one more person, and that it was Ms. Masson (Mrs. Linklater’s former name). According to Mr. Dillon, Mr. Pahtayken said it was “because of politics.” Another comment was made in the meeting that it was “a personal thing” between the OLCN and Mrs. Linklater. References were made to Mrs. Linklater’s Facebook posts about the Chief and Council and individual Councillors. According to Mr. Dillon, Mr. H. Pahtayken said that the OLCN’s leadership are “putting food on her table” but she is “badmouthing” OLCN’s leadership in Facebook posts. Mr. Dillon said that Walter Pahtayken also referred to attending the funeral of Mrs. Linklater’s mother and getting a rude reception from Mrs. Linklater.

[168] Mr. Dillon was “dumbfounded” and remembered thinking “what am I supposed to do?”. The bottom line, Mr. Dillon testified, was that “leadership said no.”

[169] Mr. Dillon’s testimony raises the important question of what Hubert Pahtayken meant when he said that Mrs. Linklater’s contract should not be renewed “because of politics,” and what was meant by the comment in the meeting that it was “a personal thing.”

[170] The evidence includes Facebook posts that Mrs. Linklater posted about the Chief and Council. The context for one post is that Mrs. Linklater’s mother passed away in December 2020. Mrs. Linklater confirmed that she probably posted them soon after her mother’s wake in January 2021. One series of messages claims that Delores Chief, an

OLCN Councillor in 2020 and 2021, acted inappropriately at the wake. In other messages, Mrs. Linklater referred to the Chief and Council as a “big boys club.”

[171] Although the messages are not dated, I find that they were posted in early 2021, before the April 20, 2021, Chief and Council meeting. Mrs. Linklater also testified that she probably made other negative social media posts. She also testified that she was aware of the OLCN’s policy that, as an employee, she was not supposed to make negative social media postings.

[172] I have carefully considered the evidence. I find that it was more likely than not that the comments in the Chief and Council meeting about not renewing Mrs. Linklater’s contract “because of politics,” and that it was “a personal thing,” referred to the social media messages that Mrs. Linklater posted. I accept that this was Mr. Dillon’s understanding of the events. Whether the Chief and Council acted appropriately in refusing to renew Mrs. Linklater’s teaching contract on those grounds is not for me to decide.

[173] On April 27, 2021, Mr. Dillon wrote to Mrs. Linklater about the Chief and Council’s decision. Mr. Dillon testified that, to ensure that Mrs. Linklater was properly informed that the Chief and Council made this decision and that it had not been his recommendation, the first sentence in the letter was that “Chief and Council have decided not to renew your employment contract for the 2021-22 school year.” The letter said that the last day of the 2020–2021 contract would be June 25, 2021.

[174] Mrs. Linklater testified that she asked other OLCN employees about the decision but she did not receive straight answers.

[175] Mr. Dillon testified that he told Mrs. Linklater that it was not his decision. He testified that it was unfortunate that he was blamed for it. He felt badly about it. He apologized to Mrs. Linklater during his testimony for what happened but stated several times that the decision was not within his control.

[176] The Commission submits that this letter is vague and lacking in reasons. It argues that the letter may be pretextual or may not tell the whole story. I agree that the letter does not have an explanation for the Chief and Council’s decision. However, for the purpose of

context for Mr. Dillon's later decision, I accept his evidence about what took place at the Chief and Council meeting and about his understanding that Mrs. Linklater's social media posts were the reason for its decision not to renew the contract.

[177] With the above context of what Mr. Dillon observed and understood about the Chief and Council's decision in 2021, I turn to his decision in 2022 to terminate Mrs. Linklater's substitute teaching work.

[178] Mr. Dillon testified that he made the decision to stop giving substitute teaching work to Mrs. Linklater. He also confirmed that he did so after Dorothy Pahtayken, an OLCN member, reminded him that the Chief and Council had previously decided not to renew Mrs. Linklater's teaching contract. He described it as Ms. Pahtayken refreshing his memory about what the Chief and Council had said to him during the meeting in April 2021. Mr. Dillon then decided that his decision to allow Mrs. Linklater to do substitute teaching work was not consistent with his understanding of the Chief and Council's decision not to renew her teaching contract, and that he had to follow through. He informed Mark Pelly, the school principal, of his decision, and Mr. Pelly informed Mrs. Linklater.

[179] Mr. Dillon made this decision after his conversation with Ms. Pahtayken, Hubert Pahtayken's sister. These facts raise the issue of whether an inference can be drawn that the Chief and Council played a role in having Ms. Pahtayken speak with Mr. Dillon about Mrs. Linklater's substitute teaching work.

[180] Mrs. Linklater argues in her submissions that "Dorothy Pahtayken informed Fred Dillon that there was an order from the Onion Lake Chief and Council prohibiting me from working," and that "Fred Dillon provided testimony regarding this situation."

[181] Mr. Dillon did not testify as Mrs. Linklater submits. My assessment of the evidence satisfies me that Mrs. Linklater's perception of these events is not a reasonable understanding of what took place. Despite Hubert Pahtayken's position as a Councillor on the Chief and Council, and despite Dorothy Pahtayken's family relationship with Mr. Pahtayken, I am not satisfied on a balance of probabilities that the Chief and Council had Ms. Pahtayken convey instructions to Mr. Dillon.

[182] Furthermore, even if the evidence led me to draw the inference that Mrs. Linklater refers to in her submissions (and I do not do so), it would not be sufficient to prove a case of *prima facie* discrimination. The evidence must satisfy me on a balance of probabilities that there is a connection between Mrs. Linklater's 2017 Complaint and the adverse impact that she experienced. The evidence does not lead me to the conclusion that the 2017 Complaint was a factor in the decision to terminate Mrs. Linklater's substitute teaching work.

[183] Additionally, I note that the OLCN renewed Mrs. Linklater's teaching contract three times after she filed the 2017 Complaint. This does not support an inference that the 2017 Complaint was a factor in Mr. Dillon's decision.

[184] As indicated, Mr. Dillon's testimony was highly credible and reliable, and I give it high weight. Although Mr. Dillon knew about Mrs. Linklater's 2017 Complaint, his testimony was a significant component of the evidence supporting my finding that the 2017 Complaint was not a factor in the decision.

[185] The Commission submits that the OLCN is responsible for the actions of its employees and agents. I agree. However, the evidence does not convince me that Mrs. Linklater's 2017 Complaint was a factor in Mr. Dillon's decision, or in the actions of any other OLCN employee or agent, to terminate Mrs. Linklater's substitute teaching work.

[186] Having considered all the evidence about this allegation, I find that Mrs. Linklater has not proven on a balance of probabilities that her 2017 Complaint was a factor in the adverse impacts that she experienced due to the OLCN's decision to end her substitute teaching work.

VI. CONCLUSION

[187] Mrs. Linklater filed the 2017 Complaint against the OLCN.

[188] The June 29, 2021, Release that Mrs. Linklater signed precluded her from proceeding with the allegations related to the OLCN's decision not to renew her teaching contract.

[189] Mrs. Linklater did not prove on a balance of probabilities that she experienced an adverse impact based on statements that she alleged were made during the October 13, 2020, Chief and Council meeting.

[190] Mrs. Linklater proved that, after she filed the 2017 Complaint, she experienced adverse impacts based on the installation of roadblocks to the north and south of the entrance to her property. She also proved that she experienced adverse impacts based on the OLCN's decision to end her substitute teaching work.

[191] Mrs. Linklater did not prove on a balance of probabilities that the 2017 Complaint was a factor in the OLCN's decisions to install the roadblocks or in the related adverse impacts that she experienced. Mrs. Linklater also did not prove on a balance of probabilities that the 2017 Complaint was a factor in the OLCN's decision to terminate her work as a substitute teacher, or in the related adverse impacts.

[192] Because Mrs. Linklater has not proven the three elements of a *prima facie* case of discrimination, she has not proven that the OLCN engaged in the discriminatory practice of retaliation under section 14.1 of the CHRA. As a result, Mrs. Linklater is not entitled to a remedy. I dismiss her human rights complaint.

[193] In closing, I thank the parties and counsel for their focused presentation of the issues in dispute, for their civility, and for the clarity of their submissions.

[194] I also wish to acknowledge the thanks that Mrs. Linklater included in her written submissions for everyone's positive interactions with her. The Tribunal also acknowledges Mrs. Linklater's written reply to the OLCN's submissions, in which she describes her difficult personal history, her experience of the opposition she has faced for her beliefs and her faith, and her plans to use the Masson Lands to support young people.

[195] Importantly, Mrs. Linklater states that she is "...a woman who is free to practise her beliefs, and to use her voice," and that "First Nation women have a right to be heard in a manner that is safe with equality for 'all women' as we all move forward with the 'Truth and Reconciliation' process." I hope that Mrs. Linklater's view of her experience in this case is

that she has been heard in ways that are safe and fair, and that have permitted her to freely use her voice.

VII. ORDER

[196] This complaint is dismissed.

Signed by

Gary Stein
Tribunal Member

Ottawa, Ontario
December 31, 2025

Canadian Human Rights Tribunal

Parties of Record

File No.: HR-DP-2946-23

Style of Cause: Coreena Masson v. Onion Lake Cree Nation

Decision of the Tribunal Dated: December 31, 2025

Date and Place of Hearing: December 9-12, 2024

Lloydminster, Alberta

Appearances:

Coreena Linklater, Self-represented

Laure Prévost, for the Canadian Human Rights Commission

Keltie L. Lambert & Kate Pearce, for the Respondent