

**Canadian Human  
Rights Tribunal**



**Tribunal canadien  
des droits de la personne**

**Citation:** 2026 CHRT 4  
**Date:** January 16, 2026  
**File No(s):** HR-DP-3056-24

**Between:**

**C.D.**

**Complainant**

**- and -**

**Canadian Human Rights Commission**

**Commission**

**- and -**

**Canadian Armed Forces**

**Respondent**

**Ruling**

**Member:** Jo-Anne Pickel

## **I. Overview**

[1] This is a case management ruling that I consider necessary to ensure that this case proceeds in an efficient and expeditious manner while still being fair to both parties, as required by the *Canadian Human Rights Act*, R.S.C., 1985, c. H-6 (the CHRA) and the *Canadian Human Rights Tribunal Rules of Procedure, 2021*, SOR/2021-137 (the “Rules of Procedure”).

[2] The Complainant is a transgender woman who served in the Canadian Armed Forces (the CAF or the “Respondent”). She filed a complaint with the Canadian Human Rights Commission (the “Commission”) alleging that the Respondent harassed her and discriminated against her contrary to the CHRA.

## **II. Chronology**

[3] The Complainant filed her complaint with the Commission in October 2020.

[4] In April 2025, I issued a ruling regarding a motion brought by the Respondent concerning the scope of the complaint (“the scope ruling”). The date that the scope ruling was issued, I also issued directions to the Respondent to file its response to the Complainant’s Statement of Particulars (SOP), including the required disclosure of documents and witness summaries, by May 21, 2025.

[5] I then granted the Respondent’s request for an extension of that deadline and its request that I direct the Complainant to file an amended SOP showing the allegations that had been struck out due to the scope ruling. I ended up setting June 4, 2025, as the deadline for the Complainant’s amended SOP and June 25, 2025, as the deadline for the Respondent’s SOP.

[6] The Complainant filed her SOP by the June 4, 2025, deadline. Nineteen days after that, and just two days before the deadline for the Respondent’s SOP, the Respondent’s counsel asked for an emergency case management conference call (CMCC) to discuss the scope ruling.

[7] I held a CMCC with the parties on June 20, 2025, during which I directed them to undertake next steps in the case. I confirmed the directions in writing with the parties after the call. In particular, I issued the following directions:

- By August 22, 2025—Respondent to file its SOP—the SOP must be **complete**:
  - The SOP must include a complete witness list with a **detailed** summary of the expected testimony of each of the Respondent’s witnesses and a complete list of arguably relevant documents (subject to ongoing disclosure obligations and flexibility accorded to the parties to disclose any missed documents that are arguably relevant);
  - The Respondent is permitted to reference portions of its SOP in its witness summaries as necessary.
- By August 22, 2025—Complainant to file a **detailed** summary of the expected testimony of each of her witnesses other than herself. She may reference portions of her SOP in her witness summaries. It is not necessary for the Complainant to file a detailed witness summary for herself as her SOP functions as the detailed summary of her intended evidence. **[emphasis in original]**

[8] On August 22, 2025, the Complainant filed a list of five expected witnesses and summaries of their expected testimony. On the same date, the Respondent filed a list of 31 witnesses and summaries of their expected testimony. The Respondent provided the following vague description of the expected testimony of many of its witnesses (17 out of 31):

This witness will testify about direct observations and interactions with the Complainant. This witness will testify about any direct knowledge about how the Complainant was accommodated by the CAF.

[9] For some of the witnesses, this vague description was supplemented by the current rank of the witness and the time period during which they interacted with the Complainant and their rank or job title at the relevant time. For a few of them, the Respondent provided additional information about the documents to which the witness would testify, such as divisional notes or emails with the Complainant.

### **III. Level of detail expected in witness summaries**

[10] I held a CMCC with the parties on December 17, 2025. In that call, I raised concerns about the insufficient detail contained within many of the Respondent's witness summaries. I advised the parties that I would issue further directions to them regarding the level of detail required in their witness summaries.

[11] Rules 18–20 of the Rules of Procedure require parties to file “the name of each witness, other than expert witnesses, whom they intend to call, along with a summary of the witness’s anticipated testimony” with their SOPs.

[12] The disclosure of documents and witness summaries is a critical part of the Tribunal's process. Witness summaries provide critical information, not only to the other parties, but also to the Tribunal Member. Proper witness summaries not only ensure that each party fully understands the other side's case but, equally importantly, they also enable the Tribunal to effectively manage the case and structure the hearing in a proportional manner. Witness summaries should be detailed and set out the particular evidence that the witness is expected to give, rather than simply listing general topics or making vague statements that do not provide any useful information about a witness's expected testimony (see *Keith v. Canadian Armed Forces*, 2015 CHRT 4 at paras 19–20; *Richards v. Correctional Service Canada*, 2025 CHRT 88 at paras 4, 8, and 18 [*Richards*]; and *C.D. v. Wal-Mart Canada Corp.*, 2010 HRTO 426 at para 7).

#### **A. The Respondent's witness summaries**

[13] In my view, many of the Respondent's witness summaries provide an insufficient level of detail, which prevents the Tribunal or the Complainant from understanding the expected evidence of many of the Respondent's witnesses. The Tribunal has the responsibility to approach the cases before it in a proportional manner. This may mean setting reasonable limits around the testimony of certain witnesses if they have little evidence of any value to provide regarding the issues that the Tribunal must address in the case before it

[14] The Respondent has proposed to call a significant number of witnesses. However, the summaries for most of its witnesses do not tell me what evidence they would provide or what its probative value might be. For example, what are the “direct observations and interactions with the Complainant” to which the witnesses are expected to testify? Do the witnesses have any “direct knowledge about how the Complainant was accommodated by the CAF”? If so, what is the direct knowledge they have about how the Complainant was accommodated by the CAF?

[15] This proceeding is not at an early stage. The parties have already filed their SOPs. Following this, they engaged in a mediation that proved unsuccessful. The next step in this case is to move forward with planning for the hearing. In the December 17, 2025, CMCC, I set hearing dates starting on August 24, 2026, the parties’ earliest common availability. However, the Respondent’s witness statements currently read as though it has not yet spoken to most of its witnesses and does not itself know exactly what the witnesses are expected to say in their testimony at the hearing. Such statements do not comply with the Rules of Procedure or the Tribunal’s caselaw. At the CMCC, the Respondent’s counsel indicated that new information may come to light as it conducts “follow-up” interviews with the Respondent’s witnesses before the hearing. Counsel also indicated, without providing details, that it was difficult to contact certain witnesses who are on deployment. Even if that may be the case, the Respondent was supposed to file its detailed witness summaries in August 2025. It is up to the Respondent and its counsel to make the efforts necessary to interview their intended witnesses and meet the Tribunal’s reasonable deadlines for their witness summaries. As the Tribunal’s Chairperson aptly put it in *Richards*: “[T]he hearing is not a discovery process, where the parties and the Tribunal get to learn about the scope of evidence for the first time” (*Richards* at para 18.) This is why the Rules of Procedure require parties to provide early pre-hearing disclosure.

[16] I note that it is not necessary for the Respondent to list every single “direct observation and interaction” that its witnesses had with the Complainant as might be expected in an affidavit. However, the Respondent must describe the types of direct observations and interactions the proposed witnesses had with the Complainant and provide information about the relevance of those observations and interactions to the issues raised in

this case. Likewise, the Respondent must specify whether each witness actually has any “direct knowledge about how the Complainant was accommodated by the CAF” and, if so, it must describe what that direct knowledge is and how it is relevant to the issues raised in this case. These are just some examples of the kind of detail that would be expected from the Respondent to assist me in managing this case and ensuring a proportional hearing.

## **B. The Complainant’s witness summaries**

[17] In the December 17, 2025, CMCC, the Respondent’s counsel stated that she believed that its witness summaries were as detailed as the Complainant’s summaries. She argued that, if there was an insufficient level of detail in the Respondent’s statements, then the Complainant’s statements were also insufficiently detailed. I do not entirely agree for the reasons set out below.

[18] The main witness for the Complainant’s case will be the Complainant herself. The detail of her expected testimony is contained in her SOP. Of the five individuals listed on her witness list, two of them—PO2 Kelly Corbett and CPO2 Mitchell Milligan—were her supervisors during the time period relevant to the complaint. The Complainant’s counsel confirmed in the CMCC that she only listed those two individuals in case the Respondent did not intend to call them. As it turns out, the Respondent also included these two individuals on its witness list. As discussed with the parties in the CMCC, it is more logical for the Respondent, not the Complainant, to call these witnesses, as they are expected to provide testimony that supports the former’s case. Therefore, no additional details are necessary from the Complainant about the expected testimony of these two Respondent witnesses.

[19] A third individual (PO2 Elizabeth Morin-Fortin) also appears on the witness list for both parties. Both parties have indicated that she will testify to a specific email exchange that she had with the Complainant. I will be discussing with the parties whether it is most logical for the Respondent or the Complainant to call PO2 Morin-Fortin as a witness. Regardless of who calls her as a witness, it is clear from both parties’ witness summaries that she will be testifying to an email exchange that she had with the Complainant, a copy of

which the Complainant has disclosed to the Respondent. This is a sufficient level of detail if that is the only matter to which she will testify.

[20] The witness summaries provided by the Complainant for her two other witnesses were short, but in my view, provided a sufficient amount of detail. One of the witnesses was the Complainant's psychologist at the relevant time who will be testifying to her treatment of the Complainant and a letter she wrote in July 2021. The remaining witness was the Complainant's assisting officer, who assisted her to file her complaints and grievances, who will testify about his discussions with the Complainant regarding her complaints and grievances and the handling of them. In my view, this provides sufficient information to know the matters to which these witnesses will testify. Nevertheless, in the December 17, 2025, CMCC, I set up a process by which the Respondent could request additional particulars regarding the expected testimony of these witnesses, or any other of the Complainant's witnesses for which it believes the summaries were insufficient.

#### **IV. Rule 37**

[21] In the December 17, 2025, CMCC, I called the parties' attention to Rule 37 of the Rules of Procedure. Among other things, that rule provides that parties may call a witness at a hearing only if that witness was identified and a summary of their anticipated testimony was provided under Rule 18, 19, 20, or 21 of the Rules of Procedure. Parties also may introduce a document into evidence at the hearing only if that document was disclosed in their SOPs filed under Rule 18, 19, 20, or 21.

[22] Rule 37 reinforces the expectation that parties will make the efforts necessary to organize themselves to meet their obligations to provide early disclosure in proceedings before this Tribunal. The Tribunal does have the power to vary or dispense with Rule 37, or any of its rules. However, I will only do so if I am persuaded that the parties had valid reasons for not complying with the rule in question.

[23] The parties may strike witnesses from their witness lists, but they may not add any further witnesses without obtaining my permission and establishing that they had valid reasons for not identifying those witnesses in their witness lists.

[24] In the CMCC, the Respondent's counsel indicated that, despite my direction to file a complete list of documents by August 2025, its list of documents is still not complete. The Respondent cited its ongoing disclosure obligations to explain the delay in providing a complete list of documents.

[25] Rule 24 of the Rules of Procedure sets out the parties' ongoing disclosure obligations. It states as follows:

24 (1) A party must, as soon as feasible, serve and file a list of the additional relevant documents that are in its possession if

- (a) a new fact or issue is raised or a new order is sought in a statement of particulars, response or other party's reply; or
- (b) the party discovers that the list of documents provided in accordance with paragraph 18(1)(f), 19(1)(e) or 20(1)(e) is inaccurate or incomplete.

[26] As this rule makes clear, ongoing disclosure must be made "as soon as feasible" when a new fact or issue is raised or a new order is sought, or if the party "discovers" that the list of documents included in its SOP is inaccurate or incomplete.

[27] These ongoing disclosure obligations are not intended to allow parties to avoid making the efforts necessary to provide all arguably relevant documents in their possession at the time of filing their SOPs or any alternate date set by the Tribunal. When there are no new issues or facts raised or new orders sought, it is only in cases where a party "discovers" that its list of documents was incomplete or inaccurate that they have the opportunity to correct the error. In my view, the ongoing disclosure obligations set out in Rule 24 do not alter the parties' responsibility to exercise the necessary diligence to make complete disclosure as required under the Rules of Procedure.

[28] In the December 17, 2025, CMCC, I granted the Respondent one final extension until March 20, 2026, to file its complete list of arguably relevant documents and to disclose those documents to the Complainant. In accordance with Rule 37, the Respondent will require my permission to file any additional documents after this date. Such permission will only be granted if I am persuaded that there was a valid reason for the Respondent's delay in disclosing the document and that the relevance of the document outweighs any prejudice caused by the late disclosure.

[29] Everything I have said about Rule 37 above also applies to the Complainant if she were to seek to present any witnesses or documents not included in her witness list or list of documents.

[30] As a final point, I note the concern expressed by the Complainant's counsel at the significant volume of documents being disclosed by the Respondent, most of which she said have minimal relevance to any facts or issues raised in this case. The time period covered by this complaint extends just over two years. The Respondent has thus far disclosed 833 documents to the Complainant, and in the CMCC, its counsel indicated that she had over 700 more documents to review, and there may be more provided to her by her client. It bears emphasizing that the disclosure obligation of parties is to disclose all documents that are "arguably relevant" to a fact, issue, or form of relief identified by the parties in the matter (see *Egan v. Canada Revenue Agency*, 2017 CHRT 33 at para 40). Parties are not required to produce documents that happen to refer to the Complainant but that have no arguable relevance to a fact, issue, or form of relief identified by the parties in this case.

## V. Directions

[31] As I directed in the December 17, 2025, CMCC, by **March 20, 2026**, the Respondent must file the following:

- a complete list of the witnesses it intends to call at the hearing along with a **detailed** summary of the testimony each witness is expected to provide; and
- a **complete** list of all the documents in its possession that relate to a fact or issue that is raised in the complaint or to an order sought by any of the parties. A copy of the documents must also be provided to the Complainant.

[32] By **March 20, 2026**, the Complainant must file the following:

- amended witness summaries which include any relevant particulars sought by the Respondent; and
- any arguably relevant documents that respond to the Respondent's request for documentary disclosure.

*Signed by*

Jo-Anne Pickel  
Tribunal Member

Ottawa, Ontario  
January 16, 2026

# Canadian Human Rights Tribunal

## Parties of Record

**File No.:** HR-DP-3056-24

**Style of Cause:** C.D. v. Canadian Armed Forces

**Ruling of the Tribunal Dated:** January 16, 2026

**Oral representations in the CMCC by:**

Merissa D. Raymond, for the Complainant

Sarah Pearson, for the Respondent