

Canadian Human
Rights Tribunal



Tribunal canadien
des droits de la personne

Citation: 2026 CHRT 5
Date: January 20, 2026
File No.: T2664/4021

Between:

K.L.

Complainant

- and -

Canadian Human Rights Commission

Commission

- and -

Canada Post Corporation

Respondent

- and -

Safe Home-Safe Work Coalition

Interested person

Ruling

Member: Colleen Harrington

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I. OVERVIEW

[1] K.L. (Complainant) was employed by Canada Post Corporation (Respondent) as a temporary Relief Supervisor at one of its Mail Processing Plants for approximately four months, from December of 2018 to April of 2019. K.L. alleges that she experienced discrimination, including termination of her employment, on the basis of family status, sex and/or disability (or perceived disability), contrary to section 7 of the *Canadian Human Rights Act*, R.S.C. 1985, c.H-6 [CHRA]. She says this adverse treatment and termination occurred after she disclosed that she was a victim of domestic and intimate partner violence (DIPV) and likely had related post-traumatic stress disorder, and because of an alleged rumour in the workplace that she had a substance abuse issue. The Complainant and the Canadian Human Rights Commission (Commission) take the position that DIPV is relevant to establishing discrimination on the basis of intersecting grounds set out in section 3 of the CHRA, such as sex, disability and family status.

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

[3] The Safe Home-Safe Work Coalition (Coalition) is a working group comprised of two equality rights-seeking organizations, the Barbra Schlifer Commemorative Clinic and DisAbled Women's Network Canada (DAWN). The Tribunal agreed to grant the Coalition limited interested person status in this proceeding on the basis that its participation would assist the Tribunal to determine K.L.'s complaint (*K.L. v Canada Post Corporation*, 2025 CHRT 28).

[4] The Tribunal agreed that the Coalition would "be permitted to call no more than one expert witness to address the areas of its proposed contributions" so long as they do not duplicate the contributions of other parties such as the Commission (at para 85). In its motion for interested person status, the Coalition stated that it would address the following proposed contributions:

- a) The extent and forms of DIPV in Canada and its disproportionate impact on women and gender-diverse people, including those with disabilities;

- b) The high representation of marginalized women and gender-diverse people in precarious forms of work and the role of DIPV in engendering heightened insecurity in employment, as well as the important role employment serves in allowing survivors to maintain an income that facilitates escaping experiences of DIPV;
- c) The intersections of DIPV with other forms of marginalization, such as socioeconomic status, disability and/or perceived disability, immigration status, race and ethnicity and single parenthood that result in compound discrimination and create additional barriers to employment;
- d) The Tribunal's duty to examine to what extent human rights claims can successfully rely on any one, or a combination of, enumerated grounds to explain how discrimination can manifest and the Tribunal's duty to consider intersectionality and multiple grounds of discrimination in determining the outcome of a complaint such as this one;
- e) The many forms of DIPV that affect women and gender-diverse people, and the disabling effects of trauma on the health and wellbeing of its survivors;
- f) The need to ensure that human rights jurisprudence evolves consistently with other areas of law that recognize DIPV and family violence and its impact on survivors;
- g) The importance of recognizing DIPV as a form or manifestation of discrimination in light of the requirement to interpret the CHRA in a liberal and purposive manner consistent with Canada's international law obligations; and
- h) The public interest/systemic remedies sought by the Complainant and the Commission.

[5] As part of its participation in this inquiry, the Coalition seeks to admit the expert report (Report) of Anuradha Dugal, Executive Director of Women's Shelters Canada (WSC), and to call Ms. Dugal to testify at the hearing. The Coalition asks to present Ms. Dugal as an expert in "violence against women in Canada, including the shelter sector and the domestic and international instruments that inform Canadian governments' and employers' obligations to implement measures in respect of gender-based violence".

[6] Ms. Dugal's expert Report was prepared at the request of the Coalition and was shared with the parties and the Tribunal on September 10, 2025.

[7] Canada Post indicated prior to the commencement of the hearing that it objects to the admission of Ms. Dugal's evidence. The Tribunal initially directed that the issue of admissibility of the expert evidence would be dealt with at the hearing, at the time the proposed expert was called to testify. The hearing of this complaint commenced on November 24, 2025 for five days, and is scheduled to continue for a further seven days in January and February of 2026. Given the slower than expected pace of the hearing of the evidence during the first week, and the number of witnesses still to be called, I determined that it would be most efficient to determine the issue of the admissibility of Ms. Dugal's evidence in writing prior to the recommencement of the hearing on January 20, 2026.

[8] I have considered all of the submissions of the Coalition and Canada Post that were filed both before and after the commencement of the hearing, with regard to the admissibility of Ms. Dugal's Report and evidence. I set out the relevant aspects of those submissions below. The Commission and Complainant have indicated their agreement with the Coalition's position that Ms. Dugal's evidence should be admitted by the Tribunal.

II. DECISION

[9] Ms. Dugal may be called to give expert evidence in the area of violence against women in Canada, including the shelter sector and the domestic and international instruments that inform Canadian governments' and employers' obligations to implement measures in respect of gender-based violence.

[10] Ms. Dugal's Report may be admitted as evidence, and she may testify with regard to the topics included in the Report during the hearing of this complaint, with the exception of the section titled "K.L.'s Circumstances" at pages 49 to 51 of the Report. This section should be redacted from the Report prior to the Report being introduced by the Coalition at the hearing when Ms. Dugal is called to testify.

[11] I advised the parties of this decision on January 12, 2026, and stated that my full reasons would follow. This Ruling sets out my full reasons for this decision.

III. MS. DUGAL'S PROPOSED EXPERT EVIDENCE

[12] Rule 22 of the *Canadian Human Rights Tribunal Rules of Procedure, 2021* (SOR/2021-137) [Rules of Procedure] states:

- **22 (1)** For each expert witness whom a party intends to call, that party must serve and file, within the time limit established by the panel, a report that
 - **a)** sets out the expert's name and address;
 - **b)** includes the expert's *curriculum vitae* and a statement indicating how their training, education and experience qualify them to produce the report;
 - **c)** sets out the substance of their anticipated testimony; and
 - **d)** is signed by the expert.
- **(2)** An expert witness has a duty to assist the panel in an impartial, objective and independent manner.

[13] Ms. Dugal's Report complies with the requirements of Rule 22.

[14] While Ms. Dugal is the author of the Report and the witness the Coalition intends to call to testify at the hearing, the Report states that the Coalition had asked Ms. Dugal on behalf of WSC to provide an expert report in this case. According to the Report, WSC, which was incorporated and became a registered charitable organization in November of 2012, "provides a strong, unified, pan-Canadian voice on the issues of violence against women (VAW)", bringing together 16 provincial and territorial shelter organizations and supporting over 600 VAW shelters across Canada for women and children fleeing violence. As part of its mission, WSC "increases awareness to ensure that policies, legislation, and regulations are informed by the experiences and insights of [its] members" with the goal of ensuring that those who rely on shelters receive the most effective and compassionate support possible.

[15] The Report states that WSC has a research team that produces reports, discussion papers, policy briefs, and high-level environmental scans on a variety of issues related to VAW topics. WSC has led and collaborated on several policy issues, including working to develop the National Action Plan to End Gender-Based Violence. It monitors legislation and provides expert advice to policy makers to ensure policies and regulations are informed by

its stakeholders' experiences. In addition to working with the provincial and territorial shelter associations and individual shelters across Canada, WSC works with other organizations and individuals, including labour organizations across the country and with international organizations such as the Global Network of Women's Shelters.

[16] According to Ms. Dugal's CV, she has been the Executive Director of WSC since August of 2024 and prior to this she held various roles at the Canadian Women's Foundation. I understand Ms. Dugal to be supported by a WSC research team and, as part of the Report, the CVs of two other WSC employees are included: Chika Maduakolam, Research Coordinator, and Robyn Hoogendam, Research and Policy Manager. Ms. Maduakolam has a legal background, both academic and practical, and Ms. Hoogendam has a PhD in Public Policy and Administration. The CVs of all three list their relevant education, employment and volunteer experience, publications and presentations.

[17] The Report states that:

The WSC team brings deep expertise in GBV [gender based violence], housing, policy, and research methodology. Our team members combine decades of experience across frontline shelter work, national advocacy, research, and international feminist engagement. ... The WSC team is recognized nationally and internationally as trusted advisors. Governments, funders, media, and survivors regularly turn to them for expertise, whether in shaping funding programs, designing training, or commenting on national crises. The team's credibility stems from both our technical and evidence-based knowledge and our commitment to feminist, trauma-informed principles.

[18] The Report indicates that, as part of her expert retainer, Ms. Dugal accepts her and WSC's duty to provide an objective, balanced, and unbiased opinion, to confine her views within the ambit of her field of expertise, and to furnish any other aid the Tribunal may reasonably require to adjudicate the issues before it. She acknowledges that this duty is higher than any which she or WSC may owe to the Coalition on whose behalf she is retained.

[19] The Report states that Ms. Dugal was asked by the Coalition to provide the Tribunal with expert background on several subjects including, but not limited to:

- The prevalence and nature of DIPV in Canada;

- Whether DIPV has a disproportionate impact on women, gender-diverse individuals and people with disabilities,
- What Canada's international and domestic obligations are in relation to DIPV;
- How Canada's shelter system functions for those experiencing DIPV, and the role employment can and should play in helping survivors achieve financial independence and escape abuse;
- How employers can and should accommodate women who have experienced DIPV;
- How employers can and should accommodate women with disabilities, including those with actual or perceived mental health challenges and disabilities related to their experience of DIPV; and
- Any other matter deemed relevant to this proceeding.

[20] In addition to these background subjects, the Coalition asked Ms. Dugal to answer the following questions specific to K.L.'s case:

1. Was it reasonable for a woman like K.L. in March 2019 to leave the city where she lived and worked and go to another location approximately 100km away to stay at a women's shelter?
2. What kinds of facilities and services did a shelter like this women's shelter provide and not provide to a woman like K.L. in March of 2019?
3. What kinds of restrictions, if any, did a shelter like this impose on a woman like K.L. in March of 2019?
4. Was it reasonable for a woman like K.L. not to attend work while she was staying in a shelter like this?
5. Please identify any areas where you disagree with what the Commission's expert witness Dr. Jaffe has written in his report or have additional or updated information to provide in relation to matters he addresses in his report;
6. Were Canada Post's policies and procedures, including training programs, that were in place during K.L.'s employment adequate and appropriate insofar as DIPV issues in the workplace were concerned, as alleged by Canada Post in its SOP?
7. Are the public interest remedies outlined by K.L. and the Commission in their SOPs worthwhile? Please comment on these and any other remedies you favour, referencing the policies and procedures and training programs Canada Post introduced after K.L.'s employment;

8. Any other comments or observations you deem relevant and necessary for the Tribunal to have.

[21] The Coalition provided Ms. Dugal with several documents related to K.L.'s complaint to assist her in preparing the Report, including: the parties' Statements of Particulars (SOP); the Report prepared by the Commission's expert witness, Dr. Peter Jaffe; K.L.'s CV; emails sent by K.L. and other Canada Post employees during K.L.'s employment; K.L.'s probationary reports during her employment with Canada Post; a letter from a women's shelter where K.L. stayed while employed by Canada Post; and, Canada Post policies in place both during and following K.L.'s employment.

[22] Ms. Dugal summarizes "Background Facts" in the Report based on her understanding of facts she believes will not be disputed at the hearing, as well as additional allegations relating to both K.L.'s and Canada Post's positions. I note that the Report was prepared before the parties finalized their Agreed Statement of Facts that has been filed with the Tribunal as part of the evidence at the hearing.

[23] The Report responds to the questions asked by the Coalition. With respect to the questions specific to this case, listed above, Ms. Dugal notes that, in answering Questions 1-4, she outlines WSC's research and understanding of the shelter sector and survivors and the characteristics of different experiences of DIPV depending on intersecting identities. In response to Question 5, the Report states that the WSC team does not disagree with Dr. Jaffe's conclusions or findings and additional comments and updates to the information related to WSC, the experience of women in shelters and this sector are found throughout Ms. Dugal's Report. The Report addresses Question 6 in the context of Canada's international and domestic obligations and Canada Post's own policy frameworks during the time of K.L.'s employment there. With respect to Question 7, the Report responds to this in a section called "Remedies and Recommendations". Finally, with respect to Question 8, the Report says the WSC team provides its opinion on the appropriateness of how Canada Post responded to K.L. as a short-term contract employee who had experienced and was fearful of experiencing DIPV and who believed she had or was perceived to have had a disability.

[24] The Report discusses topics set out under the following headings: Violence as a Public Concern; The Shelter Sector; Survivors Using Shelters; Canadian Obligations with

Respect to GBV and DIPV (including subheadings dealing with international and domestic obligations); Role of Employers in Offering Survivors of DIPV Safety and Security; Remedies and Recommendations. The Works Cited are set out at the end of the Report.

IV. POSITIONS OF THE PARTIES WITH RESPECT TO THE ADMISSIBILITY OF MS. DUGAL'S REPORT AND EVIDENCE

[25] Canada Post made several written submissions regarding the admissibility of Ms. Dugal's Report, both prior to and after the start of the hearing. It takes the position that her Report impermissibly expands the Coalition's scope of participation as granted by the Tribunal in its interested person ruling and argues that the Report should be deemed inadmissible under the test applied by the courts with respect to opinion evidence. The Tribunal has reviewed and considered all of the Respondent's submissions, dated September 30, 2025, October 23, 2025, November 7, 2025 and December 19, 2025.

[26] The Coalition has also made several submissions with regard to whether Ms. Dugal should be called to testify and about the admissibility of her proposed evidence. The Coalition disagrees with Canada Post's position that the Dugal Report impermissibly expands the scope of its participation in the hearing and argues that, while the Report meets the test for admissibility applied by the courts, the Tribunal is not required to apply this test as an administrative decision maker. I have considered all of the Coalition's submissions, dated October 31, 2025, December 12, 2025 and January 2, 2026.

A. Impermissibly expanding the scope of participation

[27] Canada Post compares the list of proposed contributions set out in the Coalition's motion to be added as an interested person (set out at paragraph 4 of this Ruling) with the topics the Report considers and takes the position that the bulk of the Report is outside the contributions that the Coalition was permitted by the Tribunal to make. Specifically, Canada Post says that the following topics covered by the Report were not part of the Coalition's proposed contributions: how Canada's shelter system functions for those experiencing DIPV; how employers can and should accommodate women who have experienced DIPV;

how employers can and should accommodate women with disabilities, including those with actual or perceived mental health challenges and disabilities related to their experience of DIPV; whether it was reasonable for a woman like K.L. to leave the city where she lived and worked to go to a women's shelter 100km away; what kinds of facilities, services and restrictions a women's shelter like the one K.L. went to would have had in March 2019; whether it was reasonable for a woman like K.L. not to attend work while she was staying at a shelter like the one she went to in March 2019; whether Canada Post's policies and procedures and training that were in place during K.L.'s employment were adequate and appropriate in relation to DIPV in the workplace; commenting on the public interest remedies outlined by K.L. and the Commission in their SOPs and any other remedies recommended, having reference to the policies, procedures and training introduced by Canada Post after K.L.'s employment; and, any other comments or observations deemed relevant.

[28] Canada Post says this is clear and improper overreach which threatens to take the litigation away from the parties. It suggests much of the Report should be struck as inadmissible on this basis.

[29] The Coalition submits that the Report complies with the Tribunal's ruling granting it interested person status and does not exceed the areas of its approved contribution. It says that the information in the Report relating to the shelter system for those experiencing DIPV is relevant social context evidence. The Coalition says this relates to K.L.'s evidence that she did stay at a women's shelter some distance from where she lived and worked and was absent from work at Canada Post during her time at the shelter, and that her absence from work was viewed by her employer as being problematic. The Coalition says that it is open for the Tribunal to infer that K.L.'s absence while she was at the shelter for DIPV reasons contributed to her termination, and that this termination amounted to discrimination.

[30] The Coalition says that social context evidence about shelter capacity, rules and services is important for the Tribunal to have, and these are addressed in Ms. Dugal's Report.

[31] In addition to providing background on DIPV shelters, including criteria for admission and the supports that may be offered by them, the Dugal Report explains who uses

Canada's shelters, noting that 99% of those entering shelters comprise women and children, including many women with disabilities.

[32] The Coalition notes that part of the reason it was granted interested person status was because it offered to address public interest remedies and notes that it cannot do this without an understanding of what the Respondent employer did and did not do in terms of the policies it had in place during K.L.'s employment and how it applied these in her specific case, as well as an appreciation of the policies it introduced after her employment. It notes that the Tribunal is of course free to adopt or reject Ms. Dugal's assessments with respect to employers' accommodation obligations towards DIPV survivor employees, as well as the appropriateness of Canada Post's specific policies, procedures, and training programs.

B. Mohan/White Burgess Test

[33] Canada Post takes the position that the Report is inadmissible as it fails to satisfy the legal framework established by the Supreme Court of Canada for determining the admissibility of opinion evidence in *R v Mohan*, 1994 CanLII 80 (SCC), [1994] 2 SCR 9 ["*Mohan*"] and later clarified in *White Burgess Langille Inman v Abbott and Haliburton Co.*, 2015 SCC 23 (CanLII) ["*White Burgess*"] (referred to in this decision as the *Mohan/White Burgess* test).

[34] Briefly, the Supreme Court established that a party seeking to qualify an expert witness to provide evidence must establish the four *Mohan* factors: (i) the evidence must be relevant; (ii) the evidence must be necessary to assist the trier of fact; (iii) the absence of an exclusionary rule of evidence; and (iv) a properly qualified expert, including impartiality, independence and the absence of bias (*Mohan* at pp.20-25; *White Burgess* at paras 22, 23, 24 and 45). Once proposed expert testimony has met the four prerequisites of admissibility, the court is to consider a second discretionary gatekeeping step to determine whether the potential benefits justify the risks to the trial process of admitting the expert evidence (*White Burgess* at para 54).

[35] Canada Post argues that the entirety of the Dugal Report ought to be deemed inadmissible on the basis that it does not satisfy the requirements of the *Mohan* test, nor does it pass the *White Burgess* gatekeeper analysis.

[36] While addressing the *Mohan/White Burgess* factors, the Coalition stresses that the CHRA explicitly states that the Tribunal's proceedings must be conducted as informally and expeditiously as the requirements of natural justice and the rules of procedure allow and, by virtue of section 50(1) of the CHRA, the Tribunal has full independence on issues of procedure and evidence. It notes that the Tribunal is granted flexibility in conducting its processes and is not bound by strict rules of evidence.

[37] The Coalition argues that it should be permitted to call Ms. Dugal, as her Report is not manifestly inadmissible, and it logically contributes to the position of the Coalition.

(i) Relevance and Necessity

[38] With regard to relevance, Canada Post submits that it "is trite law that to be admissible evidence must be relevant to the issues to be decided in the proceeding; i.e. the question is whether the proposed evidence is logically relevant to a fact in issue in this complaint." It says that, to satisfy the necessity criterion, "what is required is that the opinion be necessary in the sense that it provides information which is likely to be outside the experience and knowledge of the adjudicator."

[39] Canada Post argues that generalized evidence about DIPV and the role of employers vis-à-vis survivors of DIPV is not necessary to determine an individual case of alleged discrimination based on the grounds of sex, disability and/or family status. It says the Tribunal must consider the actual circumstances of K.L. and the actions of the Respondent, based upon the evidence heard, and then determine if the Complainant experienced adverse consequences related to a prohibited ground. Canada Post continues to object to the novel argument being made by K.L., the Commission and the Coalition in relation to whether unfavourable treatment in employment related to one's status as a survivor of DIPV can lead to a finding of discrimination on the basis of one or more enumerated grounds under section 3 of the CHRA.

[40] Canada Post argues that it would be prejudicial to seek to hold it to a standard that does not exist at law and based on Ms. Dugal's opinion as to what the law should require. It cites as an example Ms. Dugal's suggestion in her report that the Complainant's lack of access to benefits given her employment status as a temporary employee indicated a failure to accommodate the Complainant.

[41] Canada Post also submits that the Dugal Report is not necessary because it attempts to usurp the function of the Tribunal as the trier of fact by weighing and assessing an incomplete record which has not yet been established as evidence, and states conclusions on issues that are to be decided by the Tribunal. It says that, although the Coalition received full disclosure from all parties, Ms. Dugal was only provided with a small selection of that disclosure. Despite this, Ms. Dugal purports to evaluate the adequacy of Canada Post's policies and procedures in 2019, the adequacy of its current policies and procedures, and Canada Post's treatment of K.L. at the relevant time. Canada Post says the Report impermissibly attempts to advance both factual and legal conclusions on these ultimate, and core, issues. It says that all of these are issues to be determined by the Tribunal after receiving and assessing the evidence and legal authorities.

[42] Canada Post says that, similar to the proposed expert report in *Christoforou v John Grant Haulage Ltd.*, 2016 CHRT 14 [*Christoforou*], Ms. Dugal's Report simply reflects self-serving evidence advocating for the Complainant under the guise of expert opinion evidence.

[43] It further argues that the Dugal Report is not necessary for the Complainant, Commission and Coalition to advance their cases, as they may submit their proposed remedies for consideration in their arguments.

[44] The Coalition submits that, when considering the first two *Mohan* criteria of relevance and necessity, it is helpful to do so within the framework of the accepted role of an intervenor in the human rights context, referring to a case relied on by Canada Post in its initial submissions, *Oger v Whatcott*, 2018 BCHRT 229. In that case, the B.C. human rights tribunal explained the ways an intervenor can assist a tribunal in reaching its decision on the issues in a complaint, including:

Understanding the context in which a complaint arises, the perspectives of individuals and groups other than the parties to the complaint, the factual and legal issues raised by a complaint, and the impact the Tribunal's decision may have on affected individuals and groups (at para 11).

[45] The Coalition says that the Dugal Report seeks to assist the Tribunal in all of these ways, to varying degrees.

[46] The Coalition says that the Dugal Report is logically relevant to the facts at issue in the complaint and to the areas in which it was granted interested person status, including essential context evidence to assist the Tribunal in determining a novel issue. It notes that this is the first time this Tribunal will consider whether DIPV can give rise to discrimination on the grounds of family status, sex and disability under the CHRA.

[47] With regard to Canada Post's argument that the Dugal Report is not necessary because it usurps the Tribunal's role as the trier of fact and weighs and assesses an incomplete record, the Coalition notes that the Tribunal is not to be too scrupulous in applying a standard like necessity. The key question is "whether the evidence is logically rather than probatively necessary" (*Brooks v Department of Fisheries and Oceans*, 2004 CHRT 20 at para 10).

[48] The Coalition says that it is important for the Tribunal to understand the shelter system in Canada before rendering a decision in this case. It says the Dugal Report addresses DIPV's impact on the financial security of survivors, and offers public interest remedial recommendations for how employers can counter the adverse effects of DIPV. The Coalition says that these issues and concepts are not within the ambit of the Tribunal's knowledge and expertise, and require expert evidence. It also says that the novel issue of DIPV in the context of intersecting grounds of discrimination raises matters beyond the Tribunal's expertise in this case.

(ii) Exclusionary Rule

[49] Canada Post also says that portions of the Report ought to be struck because they violate an exclusionary rule of evidence by addressing domestic legal questions. It says the Report impermissibly opines on domestic obligations in national instruments or action plans,

as well as occupational health and safety, human rights, minimum standards and pay equity legislation. It argues that such references could be included in the Coalition's legal submissions instead of in its expert report.

[50] The Coalition submits that Ms. Dugal's Report is not contrary to any exclusionary rule. It says while it addresses national and international legal instruments, it is not akin to calling expert evidence on domestic legal issues alone. It says that any reference to these instruments, many of which are policies, standards, and guidelines, are intended to set the stage and frame Ms. Dugal's opinion on the specific facts and issues in this complaint, including the evolution of the understanding of DIPV, and its intersection with employment and required accommodation needs. It says this information cannot be found in existing Tribunal case law or Commission policy and, while Ms. Dugal's proposed evidence is closely connected to the allegations in this case, it will not replace the Tribunal's own fact-finding based on the full record.

[51] The Coalition also says that the exclusionary rule with respect to domestic law is more nuanced than Canada Post suggests, as confirmed by courts, whose application of the rules of evidence are stricter than the Tribunal's. It relies on decisions of the Federal Court in which expert evidence about domestic law was permitted to be called, which Canada Post says are distinguishable from the present case.

[52] The Coalition states that Ms. Dugal's proposed evidence provides relevant context for understanding international and domestic instruments' treatment of DIPV. In the context of the present case, the Coalition says that acknowledging the existence of domestic laws that apply in the DIPV and employment areas is hardly controversial, nor is pointing out that the CHRA mandates employers to accommodate individuals with disabilities up to the point of undue hardship.

[53] With respect to international legal instruments, the Coalition points out that it is well accepted by the courts and the Tribunal that these instruments and the values and principles they reflect, are relevant aids for interpreting the scope and contents of domestic legislation, including the CHRA. It refers to several cases from the Supreme Court of Canada, Federal Court and Tribunal. The Coalition says the same can be said about the domestic instruments

to which Ms. Dugal refers. It notes that the international and domestic instruments discussed in her report are the ones that inform the gender-based violence work that she and WSC have done and continue to do.

[54] The Coalition acknowledges that the responsibilities of the Tribunal cannot be delegated to experts, and the Tribunal must make its own independent findings based on the totality of the evidence.

(iii) Properly Qualified Expert

[55] Canada Post says that Ms. Dugal is not a qualified expert as her Report lacks independence and impartiality because she does not consider Canada Post documents that may undermine the conclusions offered and assumes the Complainant's version of events on an incomplete record, and in what appears to be advocacy.

[56] Canada Post also objects to the section of the Report entitled "K.L.'s Circumstances" in which she makes "sweeping factual determinations that solely reflects the Complainant's version of events." It says she makes a legal conclusion that is for the Tribunal to make in stating that K.L. was not provided with accommodation.

[57] Canada Post also says that Ms. Dugal does not possess adequate qualifications or the necessary specialized knowledge or expertise to opine on the issues covered by the Report. It says her relevant experience commenced in or around 2007 when she assumed the role of Director, Violence Prevention Programs with the Canadian Women's Foundation. Canada Post further says the Report relies on improper authorities such as an Affidavit that was sworn in support DAWN Canada's Motion for Leave to Intervene in *Ahluwalia v Ahluwalia* before the Supreme Court of Canada.

[58] Canada Post suggests the Tribunal, in determining if she is properly qualified, should consider factors such as her professional qualifications, actual experience, membership in professional associations, the nature and extent of her publications, involvement in teaching and conferences in the field, and whether she has been qualified to testify as an expert in the area previously (relying on *R v Thomas*, 2006 CanLII 1012 (ON SC)). Canada Post says Ms. Dugal does not have demonstrable expertise in most of the areas she includes in her

Report through formal education or work experience or research and, if she wrote the Report and relied on the work of her peers, it is not clear that she was able to critically assess the source material.

[59] The Coalition says that Ms. Dugal is a properly qualified expert with specialized knowledge, experience and skill in the areas she opines on, in accordance with *Mohan*. It notes that she describes both her own professional background and that of the research team at WSC that supports her and appends all of their CVs to the Report.

[60] The Coalition says that Ms. Dugal's Report is balanced and she is not an "agent" for the Coalition. She received materials to consider that originated from each of the parties and had access to all of the parties' SOPs. It says she conducted a fulsome assessment of Canada Post's policies both before and after K.L.'s employment and recognized Canada Post's intention to stop violence.

[61] The Coalition says that, to the extent that Ms. Dugal made assumptions or relied on facts that prove incorrect or incomplete, the appropriate way to address this is through cross-examination and in closing submissions, rather than by way of a motion to declare her entire Report inadmissible.

(iv) Gatekeeper Analysis

[62] Canada Post submits that there is no benefit to the admission of the Dugal Report, whereas the prejudice of admission would be substantial, because the Report is duplicative of Dr. Jaffe's report, it covers improper subjects, and clearly assumes the role of advocate for the Coalition and Complainant. It says that the Tribunal must not exercise its discretion to admit evidence that would be inadmissible in such a way as to compromise the fairness of its proceeding. The risks of admitting the Report, it says, include "possible distortion of the fact-finding process, a risk of reliance on unproven material, and an increase in the already significant expenditure of time and money in the adjudication of this matter."

[63] The Coalition submits there is no unfairness to any of the parties, and particularly Canada Post, if the Report is deemed admissible and Ms. Dugal is permitted to testify and be cross-examined, with closing submissions on the weight this evidence should be

accorded. The Coalition says the benefits of proceeding in this way outweigh any additional time and effort that will be expended in admitting her Report in its entirety and hearing her testify. It says that, to exclude this proposed evidence would deprive the Tribunal of valuable assistance it needs to determine – at a time of heightened awareness of the epidemic-nature of DIPV – whether DIPV can constitute a form of compound discrimination deserving of CHRA protection.

V. LEGAL FRAMEWORK

[64] Section 48.9(1) of the CHRA requires that proceedings before the Tribunal “be conducted as informally and expeditiously as the requirements of natural justice and the rules of procedure allow.” Parliament has given administrative tribunals very wide latitude to hear and admit evidence so that “they will not be paralyzed by objections and procedural manoeuvres” (*Rhéaume v Canada (Attorney General)*, 2002 FCT 98 at para 28). This is meant to allow tribunals to hold less formal hearings in which all relevant points may be put forward for an expeditious review. This is consistent with section 50(1) of the CHRA, which requires the Tribunal to give all parties, including interested parties, “a full and ample opportunity, in person or through counsel, to appear at the inquiry, present evidence and make representations.”

[65] It is well established that administrative tribunals have the authority to control their own proceedings and to decide all questions of law or fact necessary to determine the matter (s.50(2) of the CHRA; *Canada (Attorney General) v Johnstone*, 2013 FC 113 [*Johnstone*] at para 159).

[66] Administrative tribunals also have “significant latitude in applying the rules of evidence” (*Johnstone* at para 159). Section 50(3)(c) of the CHRA permits the Tribunal to “receive and accept any evidence and other information, whether on oath or by affidavit or otherwise, that the member or panel sees fit, whether or not that evidence or information is or would be admissible in a court of law.” This includes expert evidence.

[67] While the parties rely on the legal framework established by the Supreme Court with regard to admissibility of expert evidence (the *Mohan/White Burgess* test), the Coalition is

correct that the Tribunal is not bound by the strict rules of evidence like a court. While the Tribunal has relied on this formal test in some cases, it is not required to follow this analysis either strictly or at all.

[68] Indeed, strict adherence to the *Mohan/White Burgess* test can result in an undue focus on specific legal requirements and distract from the key issue of whether the proposed expert evidence can provide helpful opinion evidence to the Tribunal. As such, the Tribunal should be cautious about adhering too closely to a test that was not developed for its statutory scheme.

[69] The Tribunal has recognized and warned against adhering too strictly to legal tests developed by the courts. Referring to (now) section 50(3)(c) of the CHRA, the Tribunal in *Dhanjal v Air Canada*, 1996 CanLII 2385 (CHRT) [*"Dhanjal"*] stated at page 4:

Parliament has thus indicated in the clearest possible way that a Human Rights Tribunal is not bound to adhere to the rules on admissibility of evidence developed by the civil or criminal courts. The reason for this lies in the fundamental mission that has been entrusted to it: quickly and effectively finding all the facts that can flush out discrimination and repairing the harm caused to those who are the victims thereof, rather than punishing those responsible: *O'Malley v. Simpsons-Sears*, 1985 CanLII 18 (SCC), [1985] 2 S.C.R. 536, at 547; *Robichaud v. The Queen*, 1987 CanLII 73 (SCC), [1987] 2 S.C.R. 84, at 94.

...

If, therefore, as is manifest, the Human Rights Tribunal has been recognized in both the case law and by Parliament as having a distinct and autonomous system for the presentation of evidence, it follows that a legalistic and formalistic attitude had no place in the proceedings of the Tribunal. ...

[70] In rejecting the "formalism and rigidity of known technical rules of evidence applied out of habit", the Tribunal in *Dhanjal* further concluded at page 5:

In short, the golden rule in regard to the admissibility of evidence could be articulated as follows: any evidence which is or is likely to be relevant and which, according to the rules of procedural fairness and fundamental justice developed in administrative law, does not unduly prejudice the opponent, is admissible by a human rights tribunal, as is expressly allowed by paragraph 50(2)(c) [now 50(3)(c)] of the CHRA, subject to the tribunal's final decision concerning the weight that is to be accorded such evidence in the circumstances.

Relevance and fairness are thus the two key considerations in the independent evidentiary regime of this Tribunal, which is the complete master of its own procedure. Furthermore, even if its relevance is unclear at the moment when an objection based on this ground is raised, evidence may be admitted where the Tribunal is of the opinion that the evidence is potentially relevant. In other words, when in doubt the Tribunal may decide in favour of its admissibility.

[71] However, Canada Post is correct that being more relaxed or flexible in its approach does not mean the Tribunal is obligated “to allow all expert opinion evidence proffered by the parties and then decide later on weight and acceptance” (*Christoforou* at para 68). The Tribunal is “not a body that admits anything and everything if doing so would undermine the objectives and scheme of the Act and make its proceedings unworkable” (*Richards v Correctional Service Canada*, 2025 CHRT 57 at para 41).

[72] The Tribunal in *Clegg v Air Canada*, 2019 CHRT 4 [*Clegg*] concluded at paragraph 84 that, “in the face of a question about the admissibility of a piece of evidence, the Tribunal will consider whether:

- a) the evidence is relevant;
- b) the admission of the evidence is consistent with the principles of natural justice and procedural fairness;
- c) the probative value of the evidence is outweighed by its prejudicial effect; and
- d) there is any bar to the admission of the evidence, including consideration of s. 50(4) and s. 50(5) of the *Act*.”

[73] The Tribunal in *Clegg* noted that the Tribunal “must carefully balance the value of the proposed evidence against the prejudice that its admission could cause to the inquiry, to a party” (para 73).

[74] Even though the Tribunal is not required to apply the *Mohan/White Burgess* test to arrive at an admissibility decision, it can still be guided by the general principles espoused in that test and the concerns it is aimed at addressing. In *Mohan*, Justice Sopinka commented on the risk that “expert evidence will be misused and distort the fact-finding process” (at p.21) and Justice Cromwell in *White Burgess* stated that the danger is that a “trier of fact will inappropriately defer to the expert’s opinion rather than carefully evaluate it”

(at para 17). An evaluation that considers relevance, fairness and potential prejudice addresses these concerns in the context of a Tribunal proceeding.

VI. ANALYSIS

A. The Report Does Not Impermissibly Expand the Scope of the Coalition's Proposed Contributions

[75] Canada Post objects to many of the topics covered by Ms. Dugal's Report, including information relevant to the shelter system in Canada. The Coalition says the information in the Report relating to the shelter system for those experiencing DIPV is social context evidence relevant to K.L.'s position that she stayed at a women's shelter some distance from where she lived and worked and was absent from work at Canada Post during her time at the shelter, and this absence was related to the early termination of her employment by Canada Post.

[76] I accept that the evidence relating to the shelter system in Canada falls within the Coalition's proposed contributions relating to the forms, extent and impact of DIPV in Canada, as the shelter system is clearly an important resource for women experiencing DIPV. I accept that it is being presented as social context evidence in relation to K.L.'s complaint. K.L. has already testified about her experience with the shelter system and the Respondent intends to call a worker from the shelter that K.L. stayed at to provide evidence related to K.L.'s stay there.

[77] With regard to the information in the Report about how employers can accommodate women who have experienced DIPV, including those with disabilities, I accept that this falls within the Coalition's proposed contributions, which includes the disproportionate impact of DIPV on women with disabilities, the role of employment for survivors of DIPV, and how the intersection of DIPV with other forms of marginalization such as disability can create additional barriers to employment.

[78] With regard to Canada Post's concern that the Report speaks to its policies, procedures and training and the public interest remedies outlined by K.L. and the Commission in their SOPs, the Coalition very clearly set out that one of its proposed

contributions related to the public interest/systemic remedies sought by the Complainant and the Commission. The Commission is clearly seeking remedies related to policies, procedures and training, as set out in its SOP.

[79] With the exception of one section which I discuss below, I do not find that Ms. Dugal's Report impermissibly expands the scope of the Coalition's proposed contributions, nor that it amounts to clear and improper overreach which threatens to take the litigation away from the parties.

B. The Majority of Ms. Dugal's Report Is Admissible

[80] I accept that I may consider whether proposed expert evidence ought to be excluded and to determine its admissibility prior to the expert witness being called at the hearing (*Christoforou* at para 63; see also CHRA sections 48.9(2)(g) and 50(3)(e)). In the circumstances of this case, where the proposed expert has provided a lengthy and comprehensive Report, her CV, and a formal acknowledgment of her duty as an expert witness, it is appropriate to determine the admissibility of this proposed evidence at this stage of the proceeding. This will avoid further delay during the hearing, which has already commenced.

[81] I accept that there is no "one size fits all" approach that must be taken by the Tribunal in every case when determining the admissibility of expert evidence. In this particular case, the parties have followed the *Mohan/White Burgess* test and I will consider their submissions. However, my review of the proposed evidence is conducted through the overarching lens of relevance and fairness rather than strict adherence to the *Mohan/White Burgess* factors.

[82] I accept that Ms. Dugal's Report is relevant to issues that are to be decided in the proceeding. While Canada Post disagrees with the novel argument being made by the Complainant, Commission and Coalition that DIPV can give rise to discrimination on the intersecting grounds of family status, sex and disability under the CHRA, the Tribunal has already agreed on more than one occasion that the parties may address this argument. It was the main reason the Coalition sought and was granted interested person status in this

proceeding. I agree that, with the exception of one section, Ms. Dugal's Report complies with the Coalition's proposed contributions to this inquiry and therefore agree that the Report is relevant to issues that are being advanced and will be decided in this proceeding.

[83] I also agree that Ms. Dugal's Report is necessary "in the sense that it provides information which is likely to be outside the experience and knowledge of the adjudicator." Much of the evidence can be characterized as social context in relation to DIPV in Canada, including its prevalence, impacts, and features of the shelter system. The Tribunal has previously concluded that it can admit relevant social context evidence (see, for eg. *Woodgate et al v RCMP*, 2023 CHRT 9). While the Tribunal has expertise in human rights law, it does not possess expertise with respect to DIPV in Canada.

[84] The Report also includes references to domestic and international legal obligations relating to DIPV. The Respondent opposes this evidence on the basis that it violates an exclusionary rule of evidence by addressing domestic legal questions.

[85] Again, the CHRA specifically permits the Tribunal to admit evidence that would not otherwise be admissible in a court so long as it is not privileged and so, rather than adhering strictly to a consideration of whether an exclusionary rule of evidence is at issue, it is more useful to consider this proposed evidence in terms of its relevance to the issues before the Tribunal and the fairness of permitting it to be introduced, both to the Respondent and to the Tribunal's process.

[86] I note that one of the Coalition's proposed contributions to the inquiry was to speak to the requirement to interpret the CHRA in a liberal and purposive manner consistent with Canada's international law obligations relating to DIPV. To this end, Ms. Dugal was asked by the Coalition what Canada's international and domestic obligations are in relation to DIPV. I accept that the Report's discussion of these obligations provides useful context for considering what protections should be afforded to DIPV survivors under Canadian law, and specifically in relation to their employment. As such, the relevance of this evidence is established.

[87] I also accept the Coalition's position that references in the Dugal Report to these instruments, many of which are policies, standards, and guidelines can assist the Tribunal

in understanding Ms. Dugal's evidence about the evolution of how DIPV is understood in Canada and its intersection with employment and what can be done to assist employees experiencing DIPV. I agree that no Tribunal case law or Commission policy containing this information has been filed and that Ms. Dugal's evidence will not replace the Tribunal's own fact-finding based on the full record before it.

[88] With regard to the potential prejudice of permitting evidence relating to domestic legal obligations or standards, I note that, as in *Quebec (Attorney General) v Canada*, 2008 FC 713 in which the Federal Court permitted a law professor to testify about domestic law, in this case Ms. Dugal has not been asked to answer the legal question at issue in this proceeding. Ms. Dugal's evidence in relation to domestic and international legal standards is more in the nature of providing context about obligations or expectations for governments and employers in relation to DIPV, than providing expert evidence on the law and legal tests to be applied by the Tribunal. It is for the Tribunal to determine the ultimate issue of whether Canada Post discriminated against K.L. in relation to her employment. As with all of the evidence before the Tribunal, the parties will have the opportunity to make submissions about its weight and applicability to the issues the Tribunal must decide.

[89] I agree that, with the exception of the section of her Report titled "K.L.'s Circumstances" at pages 49 to 51, Ms. Dugal's references to domestic and international law provide useful context about how DIPV is considered by governments and employers. As such, this evidence is admissible.

[90] With regard to the section titled "K.L.'s Circumstances", Canada Post objects to the admission of this section in which it says Ms. Dugal makes "sweeping factual determinations that solely reflects the Complainant's version of events." It asserts that she also makes a legal conclusion that is for the Tribunal to make in stating that K.L. was not provided with accommodation by Canada Post.

[91] The Coalition acknowledges that the Tribunal cannot delegate its responsibilities to experts, but must make its own independent findings based on the totality of the evidence. However, the Coalition submits that the Dugal Report does not render an opinion about whether or not discrimination in fact occurred but, at most, raises legitimate concerns from

the expert's perspective about Canada Post's policies and its treatment of K.L. as a DIPV survivor, while also providing recommendations regarding accommodations to better support survivors of DIPV in the employment context.

[92] I agree with Canada Post that this section of the report is unnecessary as Ms. Dugal does appear to cross the line into advocacy on behalf of the Complainant, highlighting what she considers to be the most salient facts in relation to the end of K.L.'s employment with Canada Post. I agree that this section attempts to usurp the function of the Tribunal as the trier of fact by weighing and assessing an incomplete record which has not yet been established as evidence. It is for the Tribunal to make findings of fact after hearing all of the evidence of all parties.

[93] Ms. Dugal also proffers the opinion, based on an incomplete record, that Canada Post's treatment of K.L. was not consistent with its duty to accommodate policy and its obligations under the CHRA to accommodate mental illnesses to the point of undue hardship. The Coalition is free, like the other parties, to make whatever submissions it deems appropriate after all of the evidence has been called. If it is of the view that the evidence supports a submission in line with Ms. Dugal's opinion, it can of course make that argument at the appropriate time.

[94] As I conclude that the section entitled "K.L.'s Circumstances" is not necessary to assist the Tribunal to determine a matter before it, and because the risks of admitting it outweigh the benefits, I deem this section to be inadmissible and order the Coalition to redact this section of the Report prior to Ms. Dugal's testimony.

[95] Finally, Canada Post argues that Ms. Dugal is not a qualified expert because of a lack of impartiality and a lack of educational and professional qualifications.

[96] With regard to Canada Post's concern that Ms. Dugal has not considered Canada Post documents that may undermine the conclusions offered in her Report, it can of course put whatever documents it feels Ms. Dugal has failed to consider to her in cross examination.

[97] The same applies to Canada Post's submission that Ms. Dugal does not possess adequate qualifications or the necessary specialized knowledge or expertise to opine on the

issues covered by the Report. Canada Post can cross-examine Ms. Dugal with respect to her CV and the authorities she relies on in her Report, as well as about how the Report was prepared. It can make arguments to the Tribunal about the weight that should be given to her evidence.

[98] I do not agree with Canada Post that there is no benefit to the admission of the Dugal Report. I have discussed the relevance and necessity of her evidence above. Nor do I agree that the prejudice in admitting the Report would be substantial as it submits. The Tribunal and parties have already factored in the time that will be needed to hear from Ms. Dugal in the hearing schedule. The issuing of this ruling before she testifies saves the time of having a *voir dire* as was originally discussed.

[99] The concerns Canada Post has with the Report can be dealt with through cross-examination of the witness and submissions with respect to the value and weight of the evidence after the Tribunal has heard all of the evidence, including Canada Post's witnesses who have yet to testify. The Tribunal understands that Ms. Dugal's opinion evidence does not usurp the Tribunal's role of assessing credibility, finding facts and determining the factual and legal issues in this complaint.

[100] Based on the information provided in her Report I am content to permit Ms. Dugal to provide expert evidence in the areas proposed by the Coalition.

VII. ORDER

[101] The Coalition may call Ms. Dugal to give expert evidence about violence against women in Canada, including the shelter sector and the domestic and international instruments that inform Canadian governments' and employers' obligations to implement measures in respect of gender-based violence.

[102] The Coalition is to redact the section of the Report titled "K.L.'s Circumstances" at pages 49-51 prior to introducing it at the hearing.

Signed by

Colleen Harrington
Tribunal Member

Ottawa, Ontario
January 20, 2026

Canadian Human Rights Tribunal

Parties of Record

File No.: T2664/4021

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

Ruling of the Tribunal Dated: January 20, 2026

Motion dealt with in writing without appearance of parties

Written representations by:

Jennifer Hodgins and Samantha Black, for the Respondent

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