Canadian Human Rights Tribunal

Tribunal canadien des droits de la personne

Between:

James Louie

- and -

Joyce Beattie

Complainants

- and -

Canadian Human Rights Commission

Commission

- and -

Indian and Northern Affairs Canada

Respondent

Decision

Member: Wallace G. Craig
Date: February 24, 2012
Citation: 2012 CHRT 2

Table of Contents

Page

I. Background

[1] In the period July 19 to 22, 2010, the Tribunal conducted an inquiry into allegations of the Complainants, James Louie and Joyce Beattie, that officials of the Respondent, presently named Aboriginal Affairs and Northern Development Canada, formerly Indian and Northern Affairs Canada (INAC), had engaged in discriminatory practices in dealing with the Complainants' applications for a lease under s. 58(3) of the *Indian Act* (the "*Act*").

[2] Section 58(3) of the *Act* provides:

> The Minister may lease for the benefit of any Indian, on application of that Indian for that purpose, the land of which the Indian is lawfully in possession without the land being designated.

[3] Section 3(1) of the *Canadian Human Rights Act* (*CHRA*) provides:

> For all purposes of this Act, the prohibited grounds of discrimination are race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, family status, disability and conviction for which a pardon has been granted.

[4] Section 5 of the *CHRA* provides:

> It is a discriminatory practice in the provision of goods, services, facility or accommodation customarily available to the general public,
>
> (a) to deny, or to deny access to, any such good, service, facility or accommodation to any individual, or
>
> (b) to differentiate adversely in relation to any individual, on a prohibited ground of discrimination.

[5] The Complainants had formed a business association to prepare and submit an Application for Use of Land within an Indian Reserve and a Locatee Application to the Minister of INAC pursuant to s. 58(3) of the *Act.* They sought a long term and pre-paid residential lease of

lands belonging to the locatee (Complainant Louie) to the developer (Complainant Beattie), with the intention of eventually marketing and assigning the lease to a third party. The Respondent, unsatisfied with the Complainant Louie's self-declaration that the transaction was for his benefit, declined to process the Complainants' applications unless they demonstrated that the locatee would receive consideration that reflected fair market value. The Complainants allege that this policy and interpretation of the *Act* discriminates against individual Indian land holders.

A. Tribunal Decision

[6] On January 26, 2011, the Canadian Human Rights Tribunal rendered a decision (the "Tribunal decision") that, by denying the Complainant Louie the right to determine for himself the anticipated benefits to be derived from leasing his land, and by refusing to process the locatee lease applied for by the Complainants, the Respondent had denied services customarily available to the general public and had therefore engaged in a discriminatory practice in contravention of s. 5 of the *Canadian Human Rights Act ("CHRA").*

[7] Several of the conclusions in the Tribunal decision are relevant in this clarification of the remedial orders:

> **52.** In processing the Complainants' request for a locatee lease, INAC relied on criteria and procedures in its Land Management manual in its attempt to determine if Mr. Louie's proposed transaction was viable and to his benefit. As part of this process, INAC demanded an independent appraisal to determine fair market value, without regard to the entrepreneurial joint venture agreement between the Complainants, and in November 2008, INAC demanded that Mr. Louie establish to INAC's satisfaction, proof of his 'ability and competence to enter into the proposed transaction.'
>
> **53.** INAC attempted to impose unilateral authority over every aspect of the Complainants' proposal for a locatee lease. Throughout the processing of Mr. Louie's application, INAC officials took the position that it was their 'duty' to intervene to protect Mr. Louie's interests as a status Indian, and dictate the nature and terms of the sought-after locatee lease. In doing so, they demonstrated how the Act has become an anachronism that is out of harmony with the

guaranteed individual liberty, freedom, and human rights enjoyed by all Canadians.

54. INAC's paternalistic conduct toward Mr. Louie was unequivocally endorsed and supported by then Hon. Minister Chuck Strahl in his letter to Mr. Louie on May 18, 2008. The Minister bluntly pronounced that Mr. Louie could not dictate the terms of his sought-after locatee lease, and claimed that 'a fiduciary relationship is created … when Canada enters into Certificate of Possession leases. …Under the Indian Act, the authority to establish the rent lies with Canada and cannot be extinguished by any means except legislative change. This authority extends beyond the setting of the rent and a release will not alter Canada's **unilateral authority** to establish the lease terms, which would also include but is not limited to environmental provisions.' (emphasis added)

55. The Hon. Minister was mistaken. There is no fiduciary obligation involved in the exercise of ministerial discretion under s. 58(3). Moreover, a unilateral exercise of discretion would be injudicious and negate the purpose of s. 58(3), which is intended to facilitate the leasing of land by individual Indian land owners who envision a benefit for themselves (See *Boyer, infra*).

56. The Complainants' application for a ministerial lease was based upon a joint venture agreement under which Ms. Beattie would construct a single family home on the leased land and then sell it at a price and on terms acceptable to Mr. Louie and divide the net sale proceeds. The stipulated rent of $1 was not based on the actual value of the land, and was not the benefit that Mr. Louie sought to achieve through the joint venture. The benefit that both Mr. Louie and Ms. Beattie sought to achieve was by way of the development of a single family home on the leased property, and its eventual sale. Rather than focussing on the application for a lease in the broader context of the joint venture agreement, and the benefit therein to Mr. Louie, INAC officials insisted that they would draw up a lease in compliance with all applicable Land Management Manual requirements, including a beneficial rental return over a 49-year period based on an appraisal of the land in its prospective improved state.

57. INAC's refusal to accept that Mr. Louie had the right to determine the benefit that might accrue to him from the commercial enterprise that he and Ms. Beattie had undertaken brought the application process to a standstill. For all practical purposes the Complainants' application for a ministerial lease on the terms that they had agreed upon was rejected by the Minister in his May 15, 2008 letter to Mr. Louie. The Minister's letter exacerbated INAC's discriminatory treatment of the Complainants.

B. Remedial Orders

[8] Pursuant to s. 53(2) of the *CHRA*, the Tribunal decision required the Respondent to remedy its discriminatory conduct by complying with the following five orders:

> **1.** The Respondent shall reconsider the applications of the Complainants for a locatee lease in accordance with the Tribunal's decision and order;
>
> **2.** The Respondent shall cease its discriminatory practices and take measures, in consultation with the Canadian Human Rights Commission, to redress the practices or to prevent the same or similar practices from occurring;
>
> **3.** The Respondent shall amend its Land Management Manual and other policies to provide that where individual locatees (other than those determined to be mentally incompetent or under the age of majority) have determined for themselves that a transaction is for their individual benefit, INAC will accept that determination and conduct the processing of a requested lease on that basis;
>
> **4.** The Respondent shall comply with the foregoing orders within six months of the date of the Tribunal's decision in these proceedings;
>
> **5.** The Tribunal shall retain jurisdiction and remain seized of the matter for nine months from the date of its decision in this proceeding, in order to receive further evidence, hear additional arguments and/or make additional orders in the event that the parties disagree regarding the interpretation or implementation of the relief ordered."

[9] Paragraph 59 of the Tribunal decision is an integral component of the remedial orders:

> **59.** Since the *Act* is now subject to the *CHRA*, I conclude that the application process under s. 58(3) must become an enabling administrative function that recognizes and accepts status Indians (other than those who are minors or mentally incompetent) as personally responsible Canadians capable of making their own determinations of anticipated benefits to be derived from leasing their land, and that ministerial discretion must not be exercised unilaterally.

II. Events since the Tribunal Decision

[10] In accordance with the Tribunal decision, INAC officials and the Complainants began a process of reconsideration of the Complainants' application for a s. 58(3) lease.

[11] On March 8, 2011, the Complainants provided the Respondent with a proposed lease, designating Her Majesty in Right of Canada as the lessor, but contemplating no ongoing role or responsibilities for the lessor. The proposal was not acceptable to the Respondent, however, and on March 18, 2011, the Respondent provided the Complainants with a draft lease and claimed that it incorporated the terms of the Complainants' proposed lease into its standard residential lease, where those terms reflected the information set out in the joint venture agreement. This proposed lease was not acceptable to the Complainants.

[12] On June 20, 2011, the Respondent sent an email informing the Complainants' representative that "…the Department of Indian and Northern Affairs has reconsidered the application for a locatee lease on Lot 170-1, Block 4, CLSR Plan # 93082, Okanagan Indian Reserve #1." A document titled "Lease" ("June 20/11 lease") was attached to the email with a request that the Complainants sign it and return it for signature by the Minister's delegate. The June 20/11 lease provided for an ongoing role for Her Majesty in Right of Canada as the "landlord", stating, amongst other things, that the tenant must obtain the landlord's consent for assignments, subleases, and development plans for proposed works. This proposed lease was not acceptable to the Complainants.

[13] In a letter dated July 8, 2011, the Respondent's counsel informed the Complainants' representative that the June 20/11 lease was the result of the remedially ordered process of reconsideration of the Complainants' application for a s. 58(3) lease. Respondent's counsel added that, while INAC was open to negotiating the lease,

> …such discussions have nothing to do with the Tribunal decision which was limited to the assessment of the locatee's benefit by the Respondent during the

> lease application process. I am open to discussing the lease with you next week. In any event, let there be no doubt that the Respondent is fully compliant with the above-noted paragraph. (a reference to remedial order one).

[14] During further communication which took place on July 12, 2011, Respondent's counsel again stated he was available to discuss the June 20/11 lease, but that

> if this involves importing ideas from your lease, my client will consider same if this has merit. However, as I have already stated my client is compliant with the decision of the Tribunal and these discussions are not part of the decision.

[15] On July 26, 2011, the Complainants provided a lease to the Respondent, similar to the March 8, 2011 lease. The following day, the Complainants attempted to register the lease at the Indian Land Registry. To date, the Respondent has not approved the lease under s. 58(3) of the *Act*, nor has it registered the lease at the Registry.

[16] As for the remaining remedial orders directing the Respondent to redress the discriminatory practices and amend its Land Management Manual, the Canadian Human Rights Commission (the "Commission") and the Respondent entered into an Implementation Agreement on May 26, 2011, with a view to complying with these orders.

[17] Conflicting interpretations of the remedial orders has stalemated the compliance process. On September 20, 2011, the parties presented written submissions and oral argument seeking clarification of the Tribunal decision and remedial orders.

III. Analysis and Clarification

A. Minister's Discretion Must Not Be Exercised Unilaterally

[18] The Tribunal decision requires INAC officials to facilitate the particular leasing needs of each Indian applicant, even if the sought-after lease is extraordinary or anomalous.

[19] To administer lease applications appropriately and judiciously involves engagement with the public rights of Indians as discussed in *Boyer v. R.* [1986] 2 F.C. 393. C.A.

> 17. …But in any event, I simply do not think that the Crown, when acting under subsection 58(3), is under any fiduciary obligation to the Band. The Guerin case was concerned with unallotted reserve lands which had been surrendered to the Crown for the purpose of a long term lease or a sale under favourable conditions to the Band, and as I read the judgment it is because of all of these circumstances that a duty, in the nature of a fiduciary duty, could be said to have arisen: indeed, it was the very interest of the Band with which the Minister had been entrusted as a result of the surrender and it was that interest he was dealing with in alienating the lands. When a lease is entered into pursuant to subsection 58(3), the circumstances are different altogether: no alienation is contemplated, the right to be transferred temporarily is the right to use which belongs to the individual Indian in possession and no interest of the Band can be affected (I repeat that of course I am talking about interest in a technical and legal sense; it is obvious that morally speaking the Band may always be concerned by the behaviour and attitude of its members). In my view, when he acts under subsection 58(3), the duty of the minister is, so to speak, only toward the law; he cannot go beyond the power granted to him, which he would do if, under the guise of a lease, he was to proceed to what would be, for all practical purposes, an alienation of the land (certainly not the case here, the lease being for a term of 21 years with no special renewal clause); and he cannot let extraneous consideration enter into the exercise of his discretion, which would be the case if he was to take into account anything other than the benefit of the Indian in lawful possession of the [page406] land and at whose request he is acting. The duty of the Minister is simply not toward the Band.
>
> 18. The conclusion to me is clear. Bearing in mind the structure of the Indian Act and the clear wording of subsection 58(3) thereof, there is no basis for thinking that the Minister is required to secure the consent of the Band or the Band council before executing a lease such as the one here in question. It seems that the Act which has been so much criticized for its paternalistic spirit has nevertheless seen fit to give the individual member of a Band a certain autonomy, a relative independence from the dicta of his Band council, when it comes to the exercise of his entrepreneurship and the development of his land.

[20] Furthermore, judiciousness on the part of the Minister and INAC officials in the exercise of discretion under s. 58(3) of the *Act* entails actualizing the purpose of the *CHRA* expressed in section 2 of the *CHRA*:

> The purpose of this Act is to extend the laws in Canada to give effect, within the purview of matters coming within the legislative authority of Parliament, to the principle that all individuals should have an opportunity equal with other individuals to make for themselves the lives that they are able and wish to have and to have their needs accommodated, consistent with their duties and obligations as members of society, without being hindered in or prevented from doing so by discriminatory practices based on race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, family status, disability or conviction for an offence for which a pardon has been granted.

[21] Pertinent to the exercise of ministerial discretion in the granting of a s. 58(3) lease is the fact that the lease does not result in a conveyance of ownership from the lessor (the "CP holder") to the lessee. The lessor's ownership of the land remains uninterrupted during the term of the lease, subject only to the lessee's right to possess and use the land until the termination of the lease. The termination of the lease then triggers the lessor's reversionary right to resume possession of the land.

[22] INAC's claim that it has reconsidered the Complainants' application requires a careful examination of the processing of the Complainants' application for a CP lease to determine whether it was carried out as an enabling administrative function or whether it was done "by the book", and without regard to the rights described in *Boyer* and enshrined in the *CHRA*.

[23] A "by the book" approach by INAC officials, and their insistence on a rental lease, is incompatible with the Complainants' requirements and is a vexatious exercise of discretion under s. 58(3). The term "by the book" surfaced in an exchange between Ken McDonald, Acting Director, Lands and Trust Services, BC Region and Sheila Craig, Acting Director, Lands and Economic Development, INAC, and was described in the Tribunal decision:

> Paragraph 29
>
> On February 8, 2008, Mr. McDonald emailed Mr. Beattie and sent copies to Ms. Craig, Mr. Adam and several other INAC officials explaining his recollection of a phone call to Mr. Adam: 'We had a short discussion about the nature of this transaction, and that this was an emerging issue. Locatees are increasingly looking for ways in which to use their CP lands to lever financing for housing purposes. We also discussed that this is 'cutting edge' and as such we will endeavour to work with you to find a lease model that meets Mr. Louie's needs and will also satisfy INAC's requirements.'
>
> Paragraph 36
>
> On November 7, 2008, when discussions between Mr. Beattie on behalf the complainants and INAC officials became deadlocked, Ms. Craig emailed Mr. McDonald instructing him to 'Send it all back to him with a suggested meeting date, and then close the file if we are still at an impasse…'
>
> Paragraph 37
>
> On November 11, 2008, Mr. McDonald emailed Ms. Craig: 'Sounds good Sheila. By the way at the time I was in contact with him he was told by me to keep a low profile and I would do what I could. You will recall the two releases etc. When he started his letter writing he was told that we had no option but to go by the book.'

B. INAC's Claim That It Has Complied with Remedial Order One

[24] INAC argues that the remedial order requiring reconsideration of the Complainants' application for a s. 58(3) lease was "effectively addressed" by the June 20/11 lease.

[25] INAC's Land Management Manual includes general guidelines for drafting leases. One guideline concerns the importance of recital paragraphs and informs INAC officials that recital paragraphs ought to constitute a detailed statement of the facts which are relevant to the agreement between the parties, appearing after the identification of the parties and before the legal clauses of a lease. This admonition was not complied with in the case of the June 20/11 lease. Instead, it contains a "Background" consisting of four sentences which make no reference to the complainants' joint venture.

> Title to the *land* is held by the *landlord* for the use and benefit of the *First Nation.*
>
> The *landholder*, a member of the *First Nation*, has lawful possession of the *land*, as evidenced by Certificate of Possession No. 159390.
>
> There were no improvements on the *land* at the *start date.*
>
> This lease is made under subsection 58(3) of the *Indian Act*.

[26] The "Background" fails to name James Louie as the lawful possessor of his allocated land, consigning him to an appended schedule of definitions: "*Landholder*: means James (Jimmie) Louie and any heirs, executors, administrators, successors, assigns, and other legal representatives."

[27] The June 20/11 lease is a basic boiler-plate rental lease containing provisions that conflict with the Complainants' joint venture agreement. It is not a genuine effort to comply with the remedial orders of the Tribunal decision, and reflects a close-minded and intransigent response to the Tribunal decision.

[28] Notwithstanding INAC's oral and written argument presented on September 20, 2011 in support of its claim of compliance with the Tribunal's decision, I find that INAC has continued, in defiance of the Tribunal decision, to engage in an arbitrary and vexing reconsideration of the Complainants' application for a locatee lease.

[29] This finding is based, in part, on the letter accompanying the Respondent's March 18, 2011 draft lease, sent by the Respondent to the Complainants' representative, which stated:

> We have reviewed your lease and have incorporated your terms into our standard residential lease where they reflect the information set out in the Joint Venture Agreement and the Tribunal hearing. We attach a draft for your review and to form the basis for our discussion.
>
> You will appreciate that we require details of the use of the property so that we may assess and discuss with you any remaining **mandatory statutory and regulatory requirements** for the granting of the lease. … (emphasis added)

[30] The reference to "mandatory statutory and regulatory requirements" is discussed in the next section of this clarification decision.

[31] While there is some reference to the Complainants' joint venture in the Respondent's March 18, 2011 draft lease, the assertion that it incorporates the terms of the Complainants' joint venture is inaccurate and misleading.

[32] I also conclude that the March 18, 2011 draft lease served as a template for the June 20/11 lease. Both versions may be suitable in long-term landlord and tenant situations in which the sought-after benefit to the Indian land owner is the security of regular-interval rental income. However, neither of them is compatible with the Complainants' business venture.

[33] The June 20/11 lease does not constitute compliance with the Tribunal decision and the remedially ordered process of reconsideration of the Complainants' application for a locatee lease. Rather, it signals intractability and a resumption of the discriminatory conduct engaged in by INAC officials in their initial dealings with the Complainants' application for a locatee lease. The Respondent's contradictory courses of conduct are troubling: on the one hand, affirming its intention to implement the Tribunal decision to reduce discriminatory practices of the kind experienced by the Complainants by means of the implementation agreement with the

Commission, while on the other hand, permitting its British Columbia lands officials to engage in a continuation of the initial act of discrimination.

C. INAC's Compliance with Remedial Orders Two, Three and Four

[34] This incongruity debases the May 26, 2011 implementation agreement between the Respondent and the Commission. Several paragraphs are particularly relevant to this clarification, and to the resumption of the process of reconsideration of the Complainants' application for a s. 58(3) lease:

> **2.1** Lands and the Commission recognize that reducing discrimination requires a proactive and systematic approach, and that it is in the best interest of all parties to work together to resolve allegations of discrimination as early as possible.
>
> **2.2** It is recognized that this agreement has been entered into in response to the decision by Tribunal Member Craig in that this Agreement provides for compliance with his decision.
>
> **3.** Responsibilities
>
> **A.** Compliance with the Order
>
> **3.1** Lands shall, within thirty (30) days of the date of this agreement, issue an interim directive to all Lands staff that section 58(3) locatee lease applications shall be processed in accordance with paragraph 64 subparagraph 3 of the decision of Tribunal member Craig of January 26, 2010, which provides that '[t]he Respondent shall amend its Land Management manual and other policies to provide that where individual locatees (other than those determined to be mentally incompetent or under the age of majority) have determined for themselves that a transaction is for their individual benefit, INAC will accept that determination and conduct the processing of the requested lease on that basis.' It is understood by the parties that 'individual benefit' means financial compensation, if any, in respect of the transaction. The Parties also agree and acknowledge that this shall not delay or restrict the necessity of engagement with First Nations on amendments to the Land Management Manual.

> **3.5** Both the Commission and Lands agree that nothing contained herein shall affect Lands' obligation to reconsider the applications of the complainants for a locatee lease in accordance with paragraph 64, subparagraph 2 of the decision.

[35] To satisfy remedial order one, INAC officials must craft a ministerial lease that dovetails with the Complainants' joint venture agreement, resulting in a harmonious whole constrained only by Band bylaws, and in which the Complainant Louie is the Lessor, enabling him to protect both his interest in the joint venture as it goes forward, and his reversionary right to take possession of his land on the termination of the lease.

[36] This brings into question Section 2.7 of Directive 7 – 1 in the Respondent's Land Management Manual, and the designation of the Crown as the lessor in the June 20/11 lease:

> 2.7 **Mandatory Provisions**: Most leases contain many provisions dealing with every aspect of the landlord and tenant relationship, because it is in the interest of both parties to know precisely what their obligations are. However, at the very least, every agreement for the leasing of land **must include the following elements:**
>
> a) **a lessor (landlord) and lessee (tenant).** Because legal title to all reserve lands is vested in the Crown, Her Majesty the Queen in Right of Canada must be the 'lessor' in every lease of reserve land, except in the case of a sublease. This provision applies even when the Crown has delegated control and management of lands to a particular First Nation under sections 53 or 60 of the *Indian Act.* In these cases, the delegated authority must sign the lease on behalf of the Minister, who represents the Crown. A sub-lease, by its nature, is made between the head lease lessee and a third party sub-lessee and consequently, the Crown is not a party to the sub-lease instrument; … (emphasis in original)

[37] The authors of the Manual misconstrued the purpose that was achieved when title to lands reserved for Indians was vested in the Crown simpliciter, namely that it vested only title in the Crown. The vesting of title did not include ownership. Neither the Crown nor the Government of Canada has any legal estate or reversionary interest in lands reserved for Indians.

[38] In *Mitchell v. Pequis Indian Band* [1990] 2 S.C.R. 85 (S.C.C), Mr. Justice La Forest described Indian entitlement to "land reserved for Indians" as an absolute and just right, "a plenary entitlement":

> If, then, an Indian band enters into a normal business transaction, be it with a provincial Crown, or a private corporation, and acquires personal property, be it in the form of chattels or debt obligations, how is one to characterize the property concerned? To my mind, it makes no sense to compare it with the property that enures to Indians pursuant to treaties and their ancillary agreements. **Indians have a plenary entitlement to their treaty property; it is owed to them *qua* Indians.** (emphasis added**)**

[39] Sheltered by this plenary entitlement is land allocated by bands to band members by way of Certificates of Possession, with all the ownership rights that flow from them, including the right to lease possession of their allocated lands. A locatee lease does not impinge on the ultimate and perpetual communal Indian ownership of these allocated lands, or the title to these lands which is vested in the Crown in trust for Indians.

[40] While the Government of Canada has exclusive legislative authority over "Indians and lands reserved for Indians," it must exercise this jurisdiction within the constraints of the *Charter of Rights and Freedoms* and the *Canadian Human Rights Act*.

[41] When the parties appeared before the Tribunal on September 22, 2011, the process for implementing changes to the Land Management Manual had not been completed within the six month implementation period. On application by the parties, the period was extended to May 26, 2012, with the Tribunal retaining jurisdiction until August 25, 2012.

IV. Decision

[42] A Status Indian in hand of a Certificate of Possession is entitled to build a home on his or her land, or to subdivide and develop it, without any involvement with INAC, unless and until application is made to the Minister for a s. 58(3) lease. In the process for granting such a lease,

INAC's land management officials must be attentive to the purpose of the *CHRA* to ensure that the discretionary decision whether to grant or refuse a lease is a result of an enabling administrative function. Indians must not be treated as supplicants. They are applicants having a just entitlement to lease their lands and, in doing so, to maintain control over their interest in a leasehold transaction by being designated as the lessor.

[43] In this case, INAC's insistence that the Crown, in actuality the Government of Canada, must be the lessor, abrogates the Complainant Louie's right, as the lawful owner of his CP land, to manage his continuing interest in the joint-venture development of his land.

[44] INAC's claim, that it has engaged in a meaningful reconsideration of the Complainants' application for a locatee lease, and that it has complied with the Tribunal's decision and remedial order, is without merit.

[45] INAC's claim that the remedial order does not contemplate an examination by the Tribunal of various clauses in leases exchanged by the parties during their continuing discussions to settle the terms of a suitable lease is also without merit.

[46] The Tribunal decision stipulates that the Tribunal retains jurisdiction and remains seized of the matter in order to deal with the eventuality of disagreement over implementation of the remedial orders. This ability was expressly recognized as part of the Tribunal's wide remedial powers set out in the *CHRA* by the Federal Court in *Grover v. Canada (National Research Council)* (1994), 80 F.T.R. 256 (F.C.) (para. 33).

[47] It is incumbent on the Respondent to comply with the Tribunal decision and begin again the processing of the Complainants' application for a s. 58(3) lease, and to do so in accordance with the directions and dictates of the Tribunal's 2011 decision and this Decision.

Signed by

Wallace G. Craig
Tribunal Member

Ottawa, Ontario
February 24, 2012

Canadian Human Rights Tribunal

Parties of Record

Tribunal File: T1441/6709

Style of Cause: Joyce Beattie and James Louie v. Indian and Northern Affairs Canada

Decision of the Tribunal Dated: February 24, 2012

Date and Place of Hearing: September 22, 2011

Calgary, Alberta

Appearances:

Bruce Beattie, for the Complainants

Brian Smith, for the Canadian Human Rights Commission

Sid Restall and Kevin Staska, for the Respondent