

**Canadian Human
Rights Tribunal**



**Tribunal canadien
des droits de la personne**

Citation: 2017 CHRT 13

Date: May 19, 2017

File No.: T2152/2616

Between:

Gordon Ledoux

Complainant

- and -

Canadian Human Rights Commission

Commission

- and -

Gambler First Nation

Respondent

Ruling

Member: Alex G. Pannu

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I. Background

[1] The Complainant has filed a Motion requesting full disclosure of the Respondent's Project Information Forms (PIFs) for the fiscal years ended March 31, 2013 and March 2014. These PIFs are Band documents which contain project descriptions, amounts spent, completion dates and Band priorities. The Complainant submits that this information is relevant because it would establish, to some extent, which tasks and projects were prioritized and completed by the Band during the time in question of the Complaint.

[2] The Respondent submits that some of the information sought has already been provided. It states that Band office employees have searched their records and cannot find the PIFs requested. They believe that if the PIFs were in the Band office, they were removed by Band members during a takeover of the Band office, and contend they no longer have possession of them. The Respondent further submits that the request is a fishing expedition asking for information which is not relevant to the Complaint.

[3] The Canadian Human Rights Commission agrees with the Complainant's arguments that the documents requested will help clarify the factual matrix surrounding the replacement of the water tank at Band Home 1502 and the installation of the wheelchair ramp at Band Home 1502, and the Complainant's request for repairs to the wheelchair ramp to make it suitable for use. The documents would provide information which will assist the Tribunal in establishing which other projects were prioritized and completed during the period of time which gave rise to the Complaint. They are therefore relevant to allow the Tribunal to examine the Respondent's explanations and defenses in this matter, including the question of undue hardship.

II. Law

[4] There must be a rational connection between documents and issues (arguable relevance). The request for information must not be speculative or amount to a fishing expedition and the documents should be identified with reasonable particularity (*Guay v. Canada (Royal Canadian Mounted Police)*, 2004 CHRT 34, at paras. 42-44).

[5] A party must show not that the evidence is relevant in the traditional sense, but that disclosure of a document will be useful, is appropriate, is likely to contribute to advancing the debate and is based on an acceptable objective that he or she seeks to attain in the case, and that the document is related to the dispute (*C.E.P.U. v. Bell Canada*, 2005 CHRT 34, at para. 11).

[6] While the threshold for arguable relevance is low, and the tendency now is toward more disclosure, the nexus between the issues to be proven and the requested material must nonetheless be demonstrated (*Warman v. Bahr*, 2006 CHRT 18, at paras. 6-7, 9).

[7] Parties before the Tribunal must be given a full and ample opportunity to present their cases. To be given this opportunity, parties require, among other things, the disclosure of arguably relevant information in the possession or care of the opposing party prior to the hearing of the matter. Along with the facts and issues presented by the parties, the disclosure of arguably relevant information allows each party to know the case it is up against and, therefore, adequately prepare for the hearing. For that reason, if there is a rational connection between a document and the facts, issues or forms of relief identified by the parties in the matter, it should be disclosed (*Yaffa v. Air Canada*, 2014 CHRT 22, at para. 3).

III. Analysis and Decision

[8] The Complainant's Motion for disclosure passes the threshold for arguable relevance and the requested information should be disclosed. There is a rational connection between the information requested and the facts and issues identified by the parties. The request cannot be characterized as a fishing expedition as the information to be disclosed would provide the parties with a full and ample opportunity to present their cases.

[9] I acknowledge that the Respondent claims the said information may no longer be in its possession. However, copies of such material might be obtained from the relevant federal government departments. Exercising my discretion within the purpose of the

Canadian Human Rights Tribunal's *Rules of Procedure (03-05-04)*, I make the following decision:

1. The Respondent will exercise its best efforts to provide the information sought in the Complainant's Motion, including requesting such material from the federal government if such material is not in its possession.
2. The Respondent will provide this information to the parties within four (4) weeks of the date of this decision.
3. The parties will participate in a Case Management Conference Call (CMCC) to be scheduled by the Tribunal to discuss disclosure, procedural and any other issues prior to the hearing.

Signed by

Alex G. Pannu
Tribunal Member

Ottawa, Ontario
May 19, 2017

Canadian Human Rights Tribunal

Parties of Record

Tribunal File: T2152/2616

Style of Cause: Gordon Ledoux v. Gambler First Nation

Ruling of the Tribunal Dated: May 19, 2017

Motion dealt with in writing without appearance of parties

Written representations by:

Jason Stitt, counsel for the Complainant

John Unrau, counsel for the Canadian Human Rights Commission

Jayne Pfeifer, counsel for the Respondent