

**Canadian Human
Rights Tribunal**



**Tribunal canadien
des droits de la personne**

Citation: 2021 CHRT 39

Date: October 25, 2021

File No.: T2491/4820

[ENGLISH TRANSLATION]

Between:

Eveda Nosistel

Complainant

- and -

Canadian Human Rights Commission

Commission

- and -

Correctional Service of Canada

Respondent

Decision

Member: Marie Langlois

After reviewing the file and the parties' submissions, the Canadian Human Rights Tribunal renders the following ruling:

[1] WHEREAS on June 12, 2015, Ms. Eveda Nosistel, the Complainant, filed a complaint with the Canadian Human Rights Commission, the Commission, which was then referred to the Canadian Human Rights Tribunal, the Tribunal;

[2] WHEREAS on April 22, 2021, during a case management conference held by Member Marie Langlois, who was assigned to the file, hearing dates were scheduled in collaboration with the parties, namely from October 5 to 8, 2021, and from October 13 to 15, 2021;

[3] WHEREAS at that April 22, 2021 case management conference, the Complainant realized that she had mistakenly sent the Tribunal additional documents along with her Statement of Particulars and disclosure list when she was only required to send her Statement of Particulars and disclosure list;

[4] WHEREAS at that case management conference, the parties were notified that the additional documents would be removed from the file by the Tribunal;

[5] WHEREAS on July 2, 2021, the Complainant requested that the upcoming proceedings be held in person;

[6] WHEREAS the Correctional Service of Canada, the Respondent, agreed that the upcoming hearing be held in person;

[7] WHEREAS the Canadian Human Rights Commission, the Commission, will not be present at the hearing;

[8] WHEREAS on September 21, 2021, the Complainant wrote a letter to the Chairperson of the Canadian Human Rights Tribunal indicating that it would be impossible for her to attend the hearing;

[9] WHEREAS in the letter dated September 21, 2021, the Complainant requested that the Tribunal render a paper decision on the basis of her Statement of Particulars and additional documents accompanying it;

[10] WHEREAS on September 23, 2021, Member Langlois sent the parties a letter notifying them that the hearing would be held in person, at a place to be announced shortly;

[11] WHEREAS on September 24, 2021, the Tribunal Registry confirmed by a notice of hearing the time and place of the in-person hearings starting on October 5, 2021;

[12] WHEREAS on September 27, 2021, the Tribunal Registry sent the parties a letter regarding the filing of documents for the in-person hearing;

[13] WHEREAS on October 2, 2021, the Complainant once again wrote to the Tribunal Chairperson confirming her absence at the hearing and reiterating her request for the Tribunal to render a paper decision on the basis of her Statement of Particulars and accompanying documents;

[14] WHEREAS on October 4, 2021, the Tribunal Registry sent a notice of cancellation of hearing to the parties;

[15] WHEREAS in a letter dated October 5, 2021, the Respondent objected to the Complainant's request for a paper decision to be rendered on the basis of her Statement of Particulars and additional documents accompanying it;

[16] CONSIDERING that the Complainant, in her letter to the Tribunal Chairperson dated October 2, 2021, was not seeking a postponement of the hearing;

[17] CONSIDERING that the Complainant did not send the Tribunal any further comments or requests following the Respondent's letter dated October 5, 2021;

[18] CONSIDERING that subsection 9(4) of the *Canadian Human Rights Tribunal Rules of Procedure* (03-05-04) provides that except with the consent of the parties, a document in a book of documents does not become evidence until it is introduced at the hearing and accepted by the Panel;

[19] CONSIDERING that no such consent exists between the parties;

[20] CONSIDERING that the additional documents to which the Complainant refers have not been duly placed in the file;

[21] CONSIDERING that the Complainant will not be appearing or testifying at the hearing, or filing any further documents;

[22] CONSIDERING that by her notification of her absence at the hearing, the Complainant will not be providing any evidence of any nature whatsoever;

[23] CONSIDERING that in accordance with the case law, and in particular *Quebec (Commission des droits de la personne et des droits de la jeunesse) v. Bombardier Inc. (Bombardier Aerospace Training Center)*, 2015 SCC 39 (CanLII), [2015] 2 S.C.R. 789, the complainant in proceedings before human rights tribunals must show sufficient evidence of discrimination, such that the onus of establishing the alleged discrimination rests with the Complainant in this case;

[24] CONSIDERING that in accordance with the case law, in particular *Ballantyne v. Canadian Union of Postal Workers*, 2010 CHRT 17, and in the absence of any evidence to support the complaint, the complaint is considered unsubstantiated and is dismissed under subsection 53(1) of the *Canadian Human Rights Act*, R.S.C. 1985, c. H-6;

FOR THESE REASONS, THE CANDIAN HUMAN RIGHTS TRIBUNAL

DISMISSES Ms. Evada Nosistel's complaint

Signed by

Marie Langlois
Tribunal Member

Ottawa, Ontario
October 25, 2021

Canadian Human Rights Tribunal

Parties of Record

Tribunal File: T2491/4820

Style of Cause: Eveda Nosistel v. Correctional Service of Canada

Decision of the Tribunal Dated: October 25, 2021

Motion dealt with in writing without appearance of parties

Written representations by:

Eveda Nosistel, for herself

Chantal Labonté, for the Respondent