

**Canadian Human
Rights Tribunal**



**Tribunal canadien
des droits de la personne**

Citation: 2024 CHRT 91
Date: July 17, 2024
File No.: HR-DP-2770-22

Between:

Timothy Lidkea

Complainant

- and -

Canadian Human Rights Commission

Commission

- and -

Correctional Service Canada

Respondent

- and -

Council of Canadians with Disabilities and Canadian Association for the Deaf

Interested person

Ruling

Member: Athanasios Hadjis

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I. OVERVIEW

[1] This is a ruling on a motion for interested person status.

[2] The Complainant, Timothy Lidkea, filed a complaint against the Respondent, Correctional Service Canada (CSC). He states in his complaint that he is an inmate who is Deaf. Mr. Lidkea alleges that CSC failed to accommodate his disability by, among other things, not providing him with sufficient access to an American Sign Language interpreter or to technology that would enable him to communicate with others. He claims that this in turn prevented him from practising his Métis culture. The Canadian Human Rights Commission (the “Commission”) referred the complaint to the Tribunal for inquiry.

[3] A coalition comprised of the Council of Canadians with Disabilities (CCD) and the Canadian Association of the Deaf (CAD) (the “Coalition”) has asked the Tribunal to be recognized as an interested person in respect of the inquiry into the complaint.

II. DECISION

[4] The Coalition is recognized as an interested person, with limits on the extent of its participation.

III. ISSUES

[5] The issues are the following:

1. Should the Coalition be recognized as an interested person?
2. If yes, what is the extent of its participation in the inquiry?

IV. ANALYSIS

A. The Coalition is recognized as an interested person

[6] Rule 27 of the *Canadian Human Rights Tribunal Rules of Procedure, 2021*, SOR/2021-137, (the “Rules”) sets out the procedure that a person seeking to be recognized

as an interested person must follow. Rule 27(2) states that the notice of motion must specify the assistance the person wishes to provide to the inquiry and the extent to which the person wishes to participate in the inquiry. If the Tribunal grants the motion, it must specify the extent to which the interested person is permitted to participate (Rule 27(3)).

[7] The Complainant, the Commission, and CSC consent to the Coalition's request for interested person status on the terms proposed in the Coalition's request. The Commission points out that on May 12, 2023, CSC conceded liability in this case. CSC made an offer to implement individual and public interest remedies under the *Canadian Human Rights Act*, R.S.C. 1985, c. H-6, which narrowed the scope of the issues for the Tribunal's consideration.

[8] The Tribunal considers the following criteria in determining whether to grant an interested person request (*Letnes v. Royal Canadian Mounted Police*, 2021 CHRT 30 at paras 8-13 [*Letnes*]; *Liu v. Public Safety Canada*, 2024 CHRT 14 at paras 8-9):

1. The prospective interested person's expertise will be of assistance to the Tribunal;
2. Their involvement will add to the legal positions of the parties; and
3. The proceeding may have an impact on the requesting party's interests.

[9] The analysis must not be performed strictly and automatically; rather, it should be approached on a case-by-case basis by applying a flexible and holistic perspective.

[10] The Coalition filed affidavits in support of the motion, which were signed by the National Chairperson of the CCD and by the Executive Director of the CAD and which describe their organizations' activities.

[11] The CCD was founded in 1976 to represent the interests of persons with disabilities. Its mandate encompasses diverse disability justice advocacy efforts to improve the status of persons with disabilities. It is comprised of multiple provincial and national disability-run organizations. The CCD does public policy work including supporting the development of regulatory protections for access to accommodations, engaging in public interest litigation, and advocating for the elimination of discriminatory barriers.

[12] The CAD is a national advocacy organization serving Canadians who are Deaf, DeafBlind, Hard of Hearing, and Deaf Disabled (DDBHHD+). It protects and promotes the

rights, needs, and concerns of Deaf Canadians and in particular those who communicate through Sign Language. All members of the CAD Board of Directors and staff identify as DDBHHD+. CAD is associated with fourteen provincial, territorial, and organizational affiliate member organizations. The CAD has extensive experience advocating for policy development and law reform in various sectors, including in relation to the development of communication services, tools, and technologies that Deaf Canadians use to overcome barriers faced in a hearing society. Its members regularly communicate with Deaf persons in prison and with Deaf relatives or friends of hearing persons in prison. The CAD thus understands the unique perspectives of Deaf people interacting with the prison system, including the barriers they face due to lack of accommodations.

[13] I find that all three criteria set out in the *Letnes* decision are met in this case.

[14] The Coalition can assist the Tribunal in deciding the remedial questions that remain at issue. The Complainant and the Commission are seeking remedies of an individual and systemic nature. CSC has offered to implement individual and public interest remedies. The Coalition's experience and perspectives on accessibility issues at a national scale will allow it to provide informed submissions on systemic accessibility issues and solutions.

[15] The Coalition's wide-ranging and national perspective will also enable it to contribute to the legal positions of the Complainant and the Commission on these remedial issues.

[16] Finally, this case could certainly have an impact on the persons that the Coalition serves by affecting the jurisprudence regarding DDBHHD+ persons and disability rights and accommodations in the provision of government services.

[17] Accordingly, the Coalition is recognized as an interested person in this case.

B. Terms of the Coalition's participation

[18] The Coalition asks that, as an interested person, it should be permitted to make written and oral submissions at the hearing.

[19] The Coalition also states that it is committed to working with the parties and the Tribunal to ensure the expeditiousness of these proceedings. It promises not to repeat

arguments or cause delay. The Coalition will focus on those areas where it can provide a different perspective.

[20] These terms are reasonable. But the Coalition is reminded that CSC has admitted liability. The Coalition's submissions must be limited to the remedial questions that remain at issue and not go beyond the remedies that the Complainant and the Commission have sought in their Statements of Particulars (SOPs).

V. ORDER

[21] I order that the Coalition is granted limited interested person status in this case on the following terms:

1. The Coalition may present written and oral final submissions at the hearing.
2. The Complainant, Commission, and CSC are ordered to provide the Coalition a copy of their respective SOPs and all their disclosure documents by August 15, 2024.
3. The Coalition's representatives may attend the hearing but are not allowed to lead evidence or examine/cross-examine witnesses. The Coalition will not participate in any Case Management Conference Calls.

Signed by

Athanasios Hadjis
Tribunal Member

Ottawa, Ontario
July 17, 2024

Canadian Human Rights Tribunal

Parties of Record

File No.: HR-DP-2770-22

Style of Cause: Timothy Lidkea v. Correctional Service Canada

Ruling of the Tribunal Dated: July 17, 2024

Motion dealt with in writing without appearance of parties

Written representations by:

Jessica Magonet, for the Complainant

Edward Burnet, for the Respondent

Sameha Omer and Laure Prévost, for the Commission

Connor Bildfell, Daniel Siracusa, and Morgan Rowe, for the Interested person