

**Canadian Human
Rights Tribunal**



**Tribunal canadien
des droits de la personne**

Citation: 2024 CHRT 93

Date: July 31, 2024

File No.: T2713/8921

Between:

Sandra Heddle

Complainant

- and -

Canadian Human Rights Commission

Commission

- and -

Canada Post Corporation

Respondent

Interim Ruling

Member: Kathryn A. Raymond, K.C.

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I. Overview

[1] This is an interim ruling about a motion concerning documentary disclosure and compliance with Tribunal directions. The hearing of a motion in this case convened on July 22, 2024. The Tribunal advised the parties that the motion would be discussed but that the Tribunal was adjourning the hearing of the motion to a rescheduled date. The adjournment was to provide the Respondent with a second opportunity to address compliance issues for the motion and to correct omissions in the response the Respondent filed for the Complainant's motion about disclosure.

[2] The Tribunal identified to the Respondent the questions left unanswered or raised by the response it filed to the Complainant's motion of July 5, 2024 at the hearing on July 22, 2024. This was to assist the Respondent in identifying the information that it should have obtained and provided for this motion because its disclosure efforts are in issue. This was to facilitate an opportunity for the Respondent to provide a thorough and complete response to the issues before the motion resumes.

[3] The Tribunal identified documents and information that the Respondent is being ordered to file promptly for the motion because they are readily available and relevant to the motion. The Tribunal is also requiring that the Respondent follow a timely process to obtain additional documentation that that the Respondent agreed should be provided.

[4] In the interests of time, and because new procedural deadlines have been set, I do not describe at this time what documents were requested by the Complainant in her motion. I do not go into the analysis of what was omitted and should have been provided by the Respondent in these reasons or what was uncertain but evoked concern in this regard. Respondent counsel has indicated a desire to address the Tribunal's concerns. These matters will be addressed when I rule upon the motion, as necessary. I will wait to receive the documents and any affidavit evidence that is relevant to the motion that the Respondent has agreed to provide before I draw conclusions.

[5] I am issuing an interim ruling for several purposes.

[6] I explain, in broad terms, the reasons that the motion was adjourned on July 22, 2024. (As indicated, I omit, for now, most of the specific concerns that led to the adjournment.)

[7] I am ordering that the Respondent disclose documents and information that is currently available to Respondent counsel that should have been provided with the Respondent's response to the motion. These documents are to be filed by the Respondent by August 6, 2024. The orders for this category of documentary disclosure are, therefore, time sensitive. To be clear, I do not order the disclosure of any documents in this interim ruling by August 6, 2024 that are not known to already be in the possession of Respondent counsel or the two witnesses referenced below.

[8] I am providing a list, as requested by Respondent counsel, of the additional information and the topics discussed at the hearing on July 22, 2024 concerning which the Tribunal has requested (and in one instance required) that the Respondent provide affidavit evidence. The Respondent agreed that it ought to have filed affidavit evidence for the motion and indicated its intention to do so. The Respondent asked for this list to assist it in meeting the deadline set of August 19, 2024 for the Respondent to file affidavit evidence. The list will be provided by the Tribunal in a letter separate from this ruling.

[9] I am exercising my discretion under s. 52 of the *CHRA*, as informed by the common law rules addressing limits to the open court principle (see *Sherman Estates v. Donovan*, 2021 SCC 25), to issue an interim confidentiality order, which is a time sensitive matter. The order concerns personal and health information of the Complainant that is believed to be in the possession of two witnesses for reasons that Respondent counsel was not able to immediately explain at the hearing. The interim order of confidentiality is intended to place this documentation directly and securely in the possession of Respondent counsel without further dissemination by or to potentially unauthorized employees of the Respondent until further directions are provided by the Tribunal. I acknowledge that such orders are usually granted at the request of a party. However, in this case, I am issuing this order on my own initiative, having regard to the sensitivity of the information potentially contained in the documents, the apparent vulnerability of the person to whom the information relates, and the procedural history of this case. Most importantly, I would emphasize that this is an

interim order, subject to reconsideration once the documentation has been disclosed to the Complainant. Issuing the order is in the interests of justice (see *John Doe v. The King*, 2023 TCC 92, paras. 6-10).

[10] Because these reasons are time-sensitive and abbreviated, I do not provide a complete explanation of the background to this motion at this time which provides important context. I reserve my jurisdiction to complete my reasons for the procedural rulings I have made for this motion when I issue the ruling on the motion. I reserve my jurisdiction to decide the issues raised by the motion in due course.

II. Abbreviated Background

[11] In advance of receiving all motion materials, the Tribunal gave procedural directions to the parties. These directions stated that the Complainant was excused from filing a formal affidavit and why. However, the Tribunal's procedural directions indicated that the Respondent and Commission would be expected to file affidavit evidence on the motion, which would certainly be the case for any disputed facts or positions.

[12] The Tribunal anticipated that there would be disputed facts and contentious matters as the motion concerned whether the Respondent had made best efforts to complete disclosure. As well, the parties were directed by the Tribunal to address the issue of their compliance with Tribunal directions in case management. It was also expected that the Respondent would address contentious allegations by the Complainant about its conduct. The Tribunal specifically directed that the Respondent address a specific allegation advanced by the Complainant in its motion materials.

[13] The Respondent filed a letter from Respondent counsel on July 5, 2024. There was insufficient indication of the factual basis for the general assertions in that letter. Counsel did not identify what content, if any, was based on his personal knowledge. The Respondent did not file affidavit evidence to provide an evidentiary basis or any relevant details to support the general assertions in the letter. The Respondent failed to address the Tribunal's request that the Respondent address its compliance with the Tribunal's directions given in case management. The Complainant had filed a separate submission previously for the motion

on this very topic, as directed. The Respondent did not address the specific allegations raised by the Complainant in her motion about its conduct, including the issue it was directed to address by the Tribunal in its response to the motion.

[14] The Tribunal inquired of Respondent counsel why the Respondent did not file affidavit evidence to address the issues in the motion. Respondent counsel stated that he thought that no affidavit was required given that the nature of the motion was a request for production and the Respondent is not necessarily objecting to any of the categories of production. It had been agreed in earlier case management that the documents requested by the Complainant were arguably relevant and were required to be disclosed and that the Respondent would make disclosure.

[15] The Tribunal did not accept the Respondent's explanation of its motion materials. The motion raised contentious issues, including but not limited to, the completeness of documentary disclosure. Affidavit evidence was required to provide support for the Respondent's positions.

[16] Further, the letter from the Respondent for the motion raised a number of questions for the Tribunal. The Tribunal identified a number of omissions in relevant information from the Respondent based on review of the Respondent's letter. There was discussion of the obligations of parties to make best efforts to provide disclosure by engaging in standard search efforts.

[17] Respondent counsel did not have information available to him to address the Tribunal's questions and concerns on July 22, 2024. The Tribunal was advised that Respondent counsel had not personally conducted or overseen the implementation of the Respondent's search efforts. The Tribunal advised the Respondent that it would offer the Respondent another opportunity to provide affidavit evidence and relevant documents for the motion and would adjourn the motion to a set date for this purpose. Respondent counsel agreed that affidavit evidence should have been filed on behalf of the Respondent to support the Respondent's assertions and to address the omissions, given the contentious issues in the motion, and to address the issues of compliance, and accepted the Tribunal's offer of an opportunity to file affidavit evidence.

III. Interim Reasons

A. Interim Disclosure

[18] Full reasons for the Tribunal's decision to adjourn the motion would require a detailed explanation of what the Respondent did not address for the motion and an accounting of the Tribunal's questions of the Respondent. Full reasons would necessitate an explanation of the responses that were provided by Respondent counsel at the motion. As this interim ruling is time sensitive, the Tribunal is issuing limited reasons now to explain the overarching reasons for its procedural decisions and the overall reason it is issuing orders requiring that certain documents be produced now; the Tribunal is not including the specific reasons for each individual order in this ruling.

[19] The Respondent is being given the opportunity to provide evidence to the Tribunal that is responsive to the issues raised by the motion. This includes those matters the Tribunal inquired about at the hearing. The Tribunal will consider the evidence and information it is provided by the Respondent and any reply by the Complainant. The Tribunal will issue a final ruling on the motion and complete its reasons. I prefer to wait to hear further from the Respondent and the Complainant as that will lead to a more productive resolution of the motion. It is also possible that the Respondent will provide evidence and information that will resolve perceived issues.

[20] The Tribunal could have chosen a more typical procedural route, one which would not involve providing the Respondent with an opportunity to file an affidavit and additional information. The Tribunal could have simply ordered the Respondent to disclose the documents if the Tribunal was not satisfied with the Respondent's response. The Respondent is represented by legal counsel. The Respondent had been given ample notice and opportunity to file materials responsive to the issues raised by the motion. The Tribunal could have made a ruling on the motion based on what the parties filed. This was acknowledged by Respondent counsel. Instead, the Tribunal exercised the procedural discretion granted to it by section 50(3) of the CHRA, as confirmed in rule 26(3) of the *Canadian Human Rights Tribunal Rules of Procedure, 2021* ("Rules"), and offered the

Respondent the opportunity to file affidavit evidence and relevant documentation for the motion.

[21] In my view, an order for production at this stage would not advance this case effectively or efficiently or cure apparent issues with non-compliance by the Respondent for several reasons. This includes that I previously directed that this disclosure occur. The case will be more accurately and fairly advanced for all parties if the Respondent is required to do what they were directed to do and expected to do in the first place.

[22] I will provide one specific example now to illustrate why I concluded that simply ordering disclosure would not address what was truly in issue. Respondent counsel states in the Respondent's letter to the Tribunal of July 5, 2024 that some documents "do not exist". On questioning at the hearing, Respondent counsel advised that he did not write that statement based on his personal knowledge. Counsel advised the Tribunal that he did not personally oversee or provide instructions for the Respondent's search for documents.

[23] Accordingly, no information or evidence was available to the Tribunal at the hearing on July 22, 2024 to explain what "does not exist" means in relation to various documents requested by the Complainant in this case. No information was available to resolve the Tribunal's questions intended to discern whether the Respondent's search methods were reasonable. I had been provided with insufficient information and no evidence upon which I could reach factual conclusions about whether arguably relevant documents exist or not, or whether they existed at one time but no longer exist. The Respondent had not explained its statement in its letter. If documents in fact do not exist because they never did exist in the first place, ordering the Respondent to disclose documents that do not exist would be nonsensical and ineffective. It would be equally futile to order the disclosure of documents that used to exist but no longer exist. Matters relevant to the existence of documents must be clarified by the parties where this is an issue so that the Tribunal may make an appropriate order.

[24] Adjourning the motion so that affidavit evidence could be provided revives the opportunity for the Respondent to engage in this motion fully and to the extent requested by the Tribunal, consistent with its directions, and, as expected—if not legally required—when

compliance with disclosure is in issue in a legal proceeding. In effect the Tribunal is ordering that the Respondent comply with its legal obligations to respond to this motion properly.

[25] These procedural decisions are, therefore, in the interests of enabling the Tribunal to address the issues raised by the motion effectively. There is no dispute that the documents requested by the Complainant are arguably relevant and should be disclosed. The dispute between the parties in the motion concerns whether the Respondent has made best efforts to make documentary disclosure to the Complainant. This motion is about whether all parties have complied with previous directions issued by the Tribunal about disclosure, including extensive procedural directions issued by the Tribunal in May 2023. Bringing the Tribunal's concerns to the attention of the Respondent and offering another opportunity for the Respondent to respond to the motion is in the interest of securing the overall fairness and accuracy of decisions respecting these issues in this proceeding.

[26] There is also the longer-term interest in ensuring that, when the hearing is held, disclosure has been completed well in advance. Disclosure of particulars by the parties in their Statements of Particulars, Lists of Documents, Lists of Witnesses and will-says is required by the *Rules*. The Tribunal's *Rules* for disclosure require that disclosure occur at the outset of the proceeding, not later on, when the parties are preparing for the hearing. This is designed to facilitate consideration of settlement and mediation, to allow the parties to prepare their cases for hearing with disclosure in hand, and to ensure that hearings proceed smoothly, without the interruption of avoidable objections, motions, or adjournments due to last minute disclosure. Consistent with the Tribunal's requirement that disclosure of all arguably relevant documents be complete, the Respondent is being given an opportunity to correct its omissions now.

[27] There is another reason for adjourning the motion so that relevant affidavit evidence, documents and information may be provided by the Respondent. The Tribunal also identified what would reasonably be expected to be addressed by the Respondent because this was in the interest of fairness to the Complainant. The Complainant is self-represented. She raised serious issues in her motion for disclosure about delay and obfuscation by the Respondent. She is entitled to a substantive and complete response from the Respondent

about its efforts. The Tribunal will make its own best efforts to ensure that the Respondent has properly searched its documentary holdings, in both paper and electronic format.

B. Interim Confidentiality Measures

[28] The Complainant alleges a breach of her personal privacy by employees of the Respondent, both of whom have been identified by the Respondent as relevant witnesses. The Complainant filed a reply to the motion where she expressed how upset she was to read a document disclosed by the Respondent. The Complainant alleged that the document included a statement by one of the witnesses that he had obtained the Complainant's WSIB file from another employee. According to the complaint, this witness was the Complainant's supervisor in the period 2016-2017 before she transferred to another worksite of the Respondent. The Complainant alleges that this former supervisor harassed her on account of her disability in this complaint.

[29] The Complainant advised that the WSIB file contains her personal and health information. This was not disputed by the Respondent at the hearing of the motion.

[30] The Complainant takes the position that her former supervisor had no right to have obtained her WSIB file. She says the same of the other witness who allegedly provided her WSIB file to her supervisor. This latter witness is described by the Respondent in its Statement of Particulars as the disability management specialist assigned to the Complainant. The Complainant alleges that the Respondent is permitting this breach of her privacy to continue. She expressed concern that her supervisor could have shared her private information with other employees.

[31] Respondent counsel confirmed at the hearing that it disclosed a document in the List of Documents the Respondent provided with its Statement of Particulars in this proceeding which included the statement by the Complainant's former supervisor that he had obtained the Complainant's WSIB file from the other employee. Respondent counsel described this document as an email dated July 18, 2019 from the Complainant's former supervisor to a number of Respondent representatives. Respondent counsel had no information concerning this matter. Counsel had not made a specific inquiry himself and believed that

the Respondent had not made inquiries or taken action to address the Complainant's privacy concerns. The Respondent did not address the Complainant's submissions on this matter for the motion in its response to the motion.

[32] Respondent counsel undertook to ascertain what file the former supervisor referred to in the email and agreed that this ought to have been included in an affidavit. I informed counsel that if it was appropriate for the Complainant's former supervisor to have possession of the Complainant's WSIB file, the Respondent would have an opportunity to explain its position including an opportunity to support its position by affidavit evidence. The Respondent would also have a further opportunity to advise whether the two witnesses had been asked to produce the WSIB file earlier.

[33] What documents the WSIB file contains, what information is contained in the documents, and whether this file is actually a copy of the WSIB's file, is required to be clarified. However, it appears from what the former supervisor wrote that the file is likely the Complainant's file with WSIB and not a file created by the Respondent. However, it could also be the case that the disability management specialist created a WSIB file for the Complainant. It may or may not be established, based on evidence on the motion – or at the hearing – that the employees in question were pre-authorized by the Respondent to obtain and possess the Complainant's WSIB file, or that the Complainant consented to the provision of her WSIB file, and her consent would extend to these witnesses. However, what is clear now is that the Complainant notified the Respondent in the context of this proceeding that she objected to her personal and health information in the possession of WSIB being shared with, or being in the possession of, the two witnesses. The Complainant clearly indicated in her Statement of Particulars that she considers these two witnesses to have been directly involved in the discrimination that she alleges against the Respondent in her complaint. In her submissions on the motion, she explained that she has alleged that her former supervisor harassed her, and she also expressed her fear that he would share her personal and health information with others. Given its impact on the pre-hearing disclosure process, including the additional complications arising from this issue and the upset to the Complainant, this matter should have been addressed as a time sensitive matter by the Respondent when it was first brought to its attention.

[34] The Respondent did not respond to the Complainant's objection in its motion materials, and it had no information about this matter to provide to the Tribunal at the hearing of this motion. This includes that Respondent was unable to identify the reasons why either witness would have the WSIB file concerning the Complainant in their possession and did not know what the file(s) contains. It was apparent that the Respondent had done nothing to address this issue which was clearly emotionally upsetting to the Complainant.

[35] The Respondent was directed by the Tribunal at the hearing on July 22, 2024 that this matter is to be addressed without further delay. Directions were provided to the Respondent that are being formalized as orders in this interim ruling.

[36] It was explained to the Complainant at the motion that the Tribunal would require the Respondent and its employees to treat the report as confidential for purposes of the inquiry on an interim basis but that it should not to be assumed that the Tribunal would grant a final confidentiality order over the file pursuant to section 52(1) of the *Canadian Human Rights Act*, R.S.C., 1985, c. H-6 (the "CHRA"). The Complainant has put her medical history in issue in this proceeding. The WSIB file is arguably relevant. It is expected to be submitted as an exhibit at the hearing of this matter. It may be the case that this is not an appropriate case for the Tribunal to issue a permanent confidentiality order pursuant to the CHRA. The requirements for the redaction of documents, a motion for a confidentiality order, and the legal test to be met for such an order were recently reviewed by the Tribunal in another case involving disclosure of medical information: *Cherette v Air Canada* 2024 CHRT 8. As mentioned earlier, I have not been asked to make a confidentiality order pursuant to section 52(1) of the CHRA by the Complainant, and I therefore make no final decision about access to the WSIB file referred to in the Respondent's documents until it has been disclosed to the Complainant, and she has had an opportunity to further consider this issue and respond.

[37] I am concerned by the distress experienced by the Complainant in connection with the alleged privacy breach. However, to be clear, the Tribunal is not making any determination about whether there is a breach of privacy concerning these records. The parties may wish to review their rights and obligations under the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5 ("PIPEDA"). But unless a privacy

concern forms part of a *CHRA* complaint, or is connected to the *CHRA* inquiry process, it is outside the purview of this Tribunal.

[38] The Complainant learned about the file when it was disclosed to her by the Respondent in its List of Documents as an arguably relevant document in this proceeding. The Complainant raised this as a privacy breach issue in her reply to the Respondent's Statement of Particulars. The fact that the file was disclosed in the Respondent's List of Documents demonstrates that the file itself is of at least some arguable relevance to the inquiry. However, a distinction must be drawn between: (i) *the file* and, (ii) *access to the file*. Given the lack of information about what occurred in relation to the Respondent's internal handling of this file, it is not clear *for what reason(s)* the witnesses in question gained access to it, when this may have occurred, or how this engages the inquiry process. Moreover, while the Complainant alleges in her complaint that her former supervisor harassed her, her complaint does not identify her supervisor's alleged possession of her WSIB file or his use of this file as an instance of alleged harassment. Based on her reply to the Respondent's Statement of Particulars and her motion submissions, it appears the Complainant views access and use of her WSIB file as an additional basis for her complaint. However, she would need to seek the Tribunal's permission if she wanted to add this issue as an allegation of discrimination, and the Tribunal would need to hear submissions from the other parties before ruling on this request.

[39] The Tribunal is issuing an interim confidentiality order over the Complainant's WSIB files(s) in the possession of the two witnesses. This is to provide temporary protection of the documents until the Tribunal can ascertain whether their possession by the witnesses is a matter that is properly within the Tribunal's purview.

[40] An interim order is being issued pursuant to s. 52(1)(c) of the *CHRA* to ensure that the file's retrieval and transmittal to the Complainant and the Tribunal occurs without disclosure to the public or to any unauthorized individuals. In other words, the order requires the Respondent to secure and maintain the confidentiality of these files for purposes of the inquiry. Until such time as the Respondent addresses the issues raised by the Complainant's objection in a manner satisfactory to the Tribunal, and discloses the file to her, these files are not to be further disseminated internally within the Respondent's

organization for the purposes of this inquiry without the prior approval of the Tribunal, subject to the following: (a) They may be provided to Respondent counsel; (b) Respondent counsel remains able to share the information with his instructing client representative(s) for this proceeding. Any issue of additional access to the file(s) by employees of the Respondent for purposes of preparing for the hearing may be addressed further after the Respondent addresses the issues raised by the Complainant's objection.

IV. Interim Procedural Directions and Orders

[41] The Respondent is to file its affidavit evidence for the motion by August 19, 2024. I will provide the Respondent with a letter setting out the topics and issues which were discussed at the hearing on July 22, 2024 as preliminary matters that appeared to require affidavit evidence. The Complainant (and the Commission, if it wishes) have until August 23, 2024 to file a reply to the Respondent's additional motion materials. The hearing of the motion will resume on August 27, 2024.

[42] In the meantime, I am issuing an interim order for the production and disclosure of certain documents that Respondent counsel already has, and that should be produced on a time sensitive basis from the two witnesses. As well, I order that additional disclosure be requested by the Respondent of third parties, namely WSIB and the Respondent's disability insurers. The Respondent offered in its motion materials to obtain these records for the Complainant if she is prepared to sign a consent for the release of these documents to the Respondent. The Complainant agreed to consent to the disclosure of documents in the possession of WSIB and the Respondent's disability insurers. The consent to be provided to WSIB and the disability insurers is to request all records, including communications and medical records in their possession, and in relation to the disability insurers, the consent is to include the records relating to the Complainant's short term and long term disability claims.

[43] I hereby grant the following orders as follows:

1. The Respondent is to file an updated List of Documents with the Registry which includes the additional documents it has disclosed since the May 2023 Case

Management Conference Call. The title of the List should be changed to “Amended List of Documents” of the Respondent and include the date of filing. This List is to be filed with the Registry by August 6, 2024.

2. The Complainant is to file an “Amended List of Documents” of the Complainant. The title of the List should be changed to “Amended List of Documents” of the Complainant and include the date of filing. The Complainant is to prepare her Amended List of Documents so that it identifies the author, recipient, date, and a brief description of the document’s subject matter. Each document is to be listed separately in the Amended List of Documents. Any undated documents are to be listed first and all dated documents are to be listed thereafter in chronological order. This List is to be filed with the Registry by August 6, 2024.
3. The Respondent is to provide the Tribunal with an amended version of the list of documents contained within Tab F of the Respondent’s response to the motion of July 5, 2024. The Respondent is to correlate the documents in Tab F to the relevant request for disclosure by the Complainant. The Respondent is to identify what further documents the Respondent has added to Tab F that are not part of the response to the Complainant’s request. The alleged relevance of any document at Tab F that pre-dates the event that allegedly disabled the Complainant in 2013 is to be explained by the Respondent in a letter to the Tribunal. This is to be filed by August 6, 2024.
4. The Respondent is to file a copy of the document referred to in paragraph 28 above in which the Complainant’s former supervisor states that he has the Complainant’s WSIB file and that he obtained it from the other witness who was the disability management specialist (identified as Document #57 in the Respondent’s List of Documents that was filed with the Respondent’s Statement of Particulars in 2022). This is to be provided to the Tribunal by August 6, 2024. Pursuant to section 52(1) of the CHRA, this document is to be sealed or encrypted by the Registry when it is provided to the Tribunal. It is to remain sealed until the Tribunal has an opportunity to review its contents and determine whether it should remain sealed for purposes of this motion.

5. Respondent counsel is to obtain directly from the Complainant's former supervisor a copy of the WSIB file referred to in Document #57, or any portion thereof, that is in his possession, whether in paper or electronic form; this is to be obtained by Respondent counsel in a manner that preserves the confidentiality of that documentation for anyone other than Respondent counsel, the representative of the Respondent from whom he obtains instructions and the Complainant. The Respondent is to provide an affidavit from the former supervisor attesting to his provision of the WSIB file referred to as Document #57 and its complete contents to Respondent counsel. While not a requirement of this witness, the affidavit may explain the circumstances under which the former supervisor came into possession of the document and his use of the documentation, including whether he shared or discussed the information with any other employees. The Respondent has an opportunity to address whether a request for this file was made earlier of this witness. This affidavit and a copy of the file and documents are to be provided to the Complainant and filed with the Tribunal by August 6, 2024. Pursuant to section 52(1) of the CHRA, the file documents are to be sealed or encrypted by the Registry when they are provided to the Tribunal.
6. Respondent counsel is to obtain directly from the witness (described as the disability management specialist who provided the WSIB file to the former supervisor) a copy of the WSIB file concerning the Complainant, or any portion thereof, that she has in her possession whether in paper or electronic form; this is to be obtained by Respondent counsel in a manner that preserves the confidentiality of that documentation for anyone other than Respondent counsel, the representative of the Respondent from whom he obtains instructions, and the Complainant. The Respondent is to provide an affidavit from this witness attesting to her provision of the complete contents of any WSIB file referred to in Document #57. While not required to do so, the witness may identify in the affidavit the contents of the WSIB file and explain both the circumstances under which she came into possession of the WSIB file and provided the documents to the former supervisor. The witness's affidavit and a copy of the file and documents in her possession is to be provided to the Complainant and filed with the Tribunal by August 6, 2024. Pursuant to section

52(1) of the CHRA, the documents are to be sealed or encrypted by the Registry when they are provided to the Tribunal.

7. The Respondent is to ask the Respondent's disability insurer, Canada Life, whether it has possession of the documentation about the Complainant that was originally in the possession of the Respondent's former disability insurer, Morneau Shepell. If Canada Life does not confirm that it has the records of Morneau Shepell, a separate request for documentation as ordered below is to be made to Morneau Shepell.
8. The Respondent is to provide the Complainant with a consent form consenting to the release of all documents and communications that pertain to her including medical records and internal and external emails and her complete file in the possession of the WSIB, Canada Life (and Morneau Shepell if these records are not necessarily in the possession of Canada Life), subject to any claim of privilege. The consent forms are to be provided by the Respondent to the Complainant by August 6, 2024. The Complainant is to sign and date the consent forms in the presence of a witness and return those forms to Respondent counsel by August 9, 2024.
9. Within 6 days of having received any signed consent from the Complainant, the Respondent is to write to the relevant document custodian (*i.e.* WSIB, Canada Life, and Morneau Shepell, if applicable) to request the production of the records described in the consent form. The Complainant is to be provided with a copy of the Respondent's requests. The Respondent's written request for disclosure from WSIB, Canada Life, and Morneau Shepell, as applicable, are to include the contents of paragraphs 7-9 of the Tribunal's operative order, or said paragraphs are to be attached to its covering letter. The Respondent is to request that the documents be provided to Respondent counsel within 60 days of receipt of the request.
10. If the Respondent becomes aware of any reason that the records will not be disclosed within 60 days, the Respondent is to notify the Tribunal of those reasons and the suggested new date forthwith.

11. Copies of any documents received by the Respondent from WSIB, Canada Life or Morneau Shepell are to be sent to the Complainant forthwith upon receipt.
12. On July 22, 2024, the Respondent requested a period of 30 days to produce the documents relevant to the Complainant's request for documentation concerning her health issues in August 2018 and related discussions or activity in the workplace. This is to be produced to the Complainant by August 23, 2024.
13. The Respondent is to file a further Amended List of Documents updating its list of documentary disclosure by November 15, 2024.

Signed by

Kathryn A. Raymond, K.C.
Tribunal Member

Ottawa, Ontario
July 31, 2024

Canadian Human Rights Tribunal

Parties of Record

Tribunal File: T2713/8921

Style of Cause: Sandra Heddle v. Canada Post Corporation

Interim Ruling of the Tribunal Dated: July 31, 2024

Written and oral representations by:

Sandra Heddle, for herself

Christine Singh, for the Canadian Human Rights Commission

Joseph Cohen-Lyons, for the Respondent