

**Canadian Human
Rights Tribunal**



**Tribunal canadien
des droits de la personne**

Citation: 2024 CHRT 97
Date: August 23, 2024
File No.: HR-DP-2995-24

Between:

Raylene Sewap

Complainant

- and -

Canadian Human Rights Commission

Commission

- and -

Correctional Service Canada

Respondent

Decision

Member: Jennifer Khurana

I. OVERVIEW

[1] Raylene Sewap, the Complainant, identifies as two-spirited and alleges that they faced discrimination and harassment while in the custody of the Correctional Service of Canada (CSC) at Fraser Valley Institution.

[2] Since March 2024, the Tribunal has attempted to contact the Complainant several times, including through their representative. The Complainant is unreachable and the Complainant's representative, Ms. Kornelsen, is unresponsive.

[3] The Tribunal asked CSC and the Canadian Human Rights Commission (the "Commission") for submissions on how to proceed in light of the Tribunal's inability to reach the Complainant or their representative. CSC's position is that the Tribunal should dismiss the complaint as abandoned because the Complainant has taken no steps to advance their case. The Commission takes no position but provided a summary of legal principles on the issue.

II. DECISION

[4] The complaint is dismissed as abandoned. The Complainant has not participated in the complaint process and has been given a reasonable opportunity to communicate their intention to proceed with their complaint and to respond. I am persuaded that the Tribunal provided adequate notice of the steps required to advance the case, and the consequences for failing to do so.

III. ANALYSIS

[5] On March 18, 2024, the Tribunal sent an initial letter to the parties to move the complaint forward to case management in preparation for a hearing. The Tribunal also sent the letter to the Complainant's representative, Ms. Jodi Kornelsen. The Tribunal did not receive a response from the Complainant or Ms. Kornelsen. The Tribunal sent a follow-up email on April 4, 2024. It tried to call Ms. Kornelsen on April 11, 2024. On April 16, 2024, the

Registry spoke with Ms. Kornelsen who said she would send the required materials to the Tribunal. The Tribunal has not received anything from the Complainant or her representative to date.

[6] The Tribunal tried to follow up with Ms. Kornelsen on April 23 by email, and on May 14 phoned her and left a voicemail. It also followed up by email on May 14, and again on June 27 by courier and email. The emails appear to have been delivered, but the courier was not collected. It did not receive a response to its communications.

[7] On May 21, 2024, CSC provided a last known phone number for the Complainant and advised that the Complainant was no longer in custody and did not have a parole officer. The Registry tried to call the number provided and left a voicemail on May 27, 2024, to which there was no response.

[8] On June 27, 2024, the Tribunal asked the Commission and CSC for updated contact information after its unsuccessful attempts to reach the Complainant or their representative. The Commission did not have any further information. CSC advised of the Complainant's last known address. The Tribunal couriered a letter to that address, however, it was returned as the address was not valid. It also sent the letter by email advising that if the Complainant did not contact the Tribunal by July 12, 2024, the complaint would be moved to case management in preparation for a hearing.

[9] On June 28, 2024, the Tribunal tried to contact Ms. Kornelsen by phone, at a number determined to be out of service. The Registry also tried to contact the Complainant directly a second time, however, it appears the number belongs to the Elizabeth Fry societies, and no one returned the Tribunal's call.

[10] Most recently, on July 17, 2024, the Tribunal asked Ms. Kornelsen to indicate whether she is still representing the Complainant, and to provide any additional contact information for the Complainant. It also asked for confirmation that the Complainant intends to proceed with their complaint. The Tribunal sent this letter by courier to the Complainant's representative, but it was unclaimed and returned. It also sent the letter by email to the Complainant's representative which appears to have been delivered. The Tribunal cautioned that in the absence of communication from the Complainant or their

representative by August 2, 2024, the Tribunal could dismiss the complaint as abandoned. Neither the Complainant nor the Complainant's representative responded or otherwise communicated with the Tribunal.

[11] In the absence of any response or indication from the Complainant that they wish to proceed with their complaint, I find that this matter should be dismissed as abandoned. The Complainant is no longer in CSC's custody or under CSC supervision and the Tribunal has no known contact information to reach the Complainant directly. The Complainant's representative is unresponsive.

[12] I accept CSC's submission that it is entitled to have the complaint addressed in a timely way. I am satisfied that the Complainant has received notice of the steps required to advance their case through their representative and the consequences for failing to do so. It is the Complainant's responsibility to advance their file and to provide their contact information (*Towedo v Correctional Service Canada*, 2024 CHRT 6 at paras. 4-5; *Mohamed v Royal Bank of Canada*, 2024 CHRT 84 at para.11). I have not been presented with information about any challenges or personal circumstances faced by the Complainant to explain their lack of participation in the process such that it would be unfair to dismiss the complaint.

IV. ORDER

[13] The complaint is dismissed as abandoned. The Tribunal's file will be closed, and the Registrar will advise the parties accordingly.

Signed by

Jennifer Khurana
Tribunal Member

Ottawa, Ontario
August 23, 2024

Canadian Human Rights Tribunal

Parties of Record

File No.: HR-DP-2995-24

Style of Cause: Raylene Sewap v. Correctional Service Canada

Decision of the Tribunal Dated: August 23, 2024

Parties of Record:

Jodi Kornelsen, for the Complainant

Jessica Walsh, for the Canadian Human Rights Commission

Graham Hallson, Kathleen Pinno and Jennifer Chow, for the Respondent