

CANADIAN HUMAN RIGHTS TRIBUNAL TRIBUNAL CANADIEN DES DROITS  
DE LA PERSONNE

JOHN WISEMAN

Complainant

- and -

CANADIAN HUMAN RIGHTS COMMISSION

Commission

- and -

ATTORNEY GENERAL OF CANADA

Respondent

RULING

MEMBER: J. Grant Sinclair 2008 CHRT 37  
2008/09/9

[1] Elizabeth Millar, a consultant on behalf of the Canadian Association of Correctional Supervisors/John Wiseman, asks the Tribunal to postpone indefinitely the hearing of Mr. Wiseman's human rights complaint dated September 30, 2003. The reason for this request is that the complainant does not have the financial resources to fund the Tribunal process.

[2] Ms. Millar has previously made the same request that the Tribunal hearing be postponed indefinitely. The parties filed written submissions. The Tribunal denied the request on June 25, 2007. The Tribunal did allow the complainant more time to November 16, 2007, to decide whether he wished to proceed. The complainant confirmed at that time that he did.

[3] The complainant wants the hearing of his complaint deferred until the resolution of a human rights complaint filed by the CR group in 1984, and a complaint by the PA group in 2006. Neither of these two complaints have been investigated by the Commission. As to the PA complaint, Ms. Millar indicates that a Federal Court hearing is expected in 2009. There is no timetable as to when the CR and PA complaints will be resolved or, if not, if and when the complaints will be referred to the Tribunal.

[4] Further, it is not clear as to how the resolution of these complaints will result in a resolution of Mr. Wiseman's complaint. At best is the June 20, 2007 letter of Mr. Hunt, then counsel for Mr. Wiseman, in which he says " . . . a settlement made on behalf of the tens of thousands would likely be a harbinger of eventual resolution of the ATL complaint. Similarly, a decision of the Tribunal, whether in favour of PSAC or the respondent would more likely than not, point the way to the eventual disposition of the ATL complaint." [emphasis added]

[5] Section 48.9 (1) of the *Canadian Human Rights Act* provides that proceedings before the Tribunal shall be conducted as informally and as expeditiously as the requirements of natural justice and rules of procedure allow. The Commission has requested the Tribunal to institute an inquiry into the complaint and the Tribunal has an obligation to proceed with an inquiry as expeditiously as possible.

[6] Indeed, the danger of delay was commented upon by the Federal Court in *Canada Post Corporation v. Public Service Alliance of Canada and Canadian Human Rights Commission*,

2008 FC 223. In its decision, commenting on the length of the Tribunal process in that case, the Court said (at paras. 264-265):

In my view, the Tribunal breached its duty under section 53 of the *CHRA*, and breached the duty to provide the parties with a fair hearing. A fair hearing is not a continuing process. A fair hearing is one where a party knows the case against it and has an opportunity of addressing that case within a reasonable time. At that point, the Tribunal has a duty to adjudicate upon the case.

A legal hearing without discipline and timelines both delays and denies justice. Justice delayed is justice denied. . . .

[7] There are two parties to this case, the complainant and the respondent. The respondent also has a right to know the case against it and the right to meet that case within a reasonable time.

[8] Although the Tribunal appreciates the dilemma of the complainant, it is not reasonable or fair to ask that the Tribunal adjourn its proceedings for an indefinite period and depending on circumstances which may not occur for many years, if they occur at all.

[9] Accordingly, Ms. Millar's request on behalf of John Wiseman to adjourn this hearing indefinitely is denied.

*"Signed by"*  
J. Grant Sinclair

OTTAWA, Ontario  
September

9,

2008

#### PARTIES OF RECORD

TRIBUNAL FILE:	T1162/4406
STYLE OF CAUSE:	John Wiseman v. Attorney General of Canada
RULING OF THE TRIBUNAL DATED:	September 9, 2008
APPEARANCES:	
John Wiseman	For himself
No one appearing	For the Canadian Human Rights Commission
Robert MacKinnon	For the Respondent