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Nunavut Human Rights Tribunal
Nunavunmi Inungnut Pitqutigiyauyunut Ihuaghayit
Tribunal des droits de la personne du Nunavut

2015-2016

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UKIUMUT TUHAQHITIT
ANNUAL REPORT
RAPPORT ANNUEL



Letter of Transmittal

November 9th, 2016

The Honourable Keith Peterson
Minister of Justice
Legislative Assembly
PO Box 1200
Iqaluit, NU X0A 0H0

Dear Minister Peterson:

On behalf of the staff and members of the Nunavut Human Rights Tribunal, it is with great pleasure that I present you, the Minister responsible for the Administration of the *Nunavut Human Rights Act*, the ninth annual report of the Nunavut Human Rights Tribunal for the fiscal year ending March 31st, 2016.

Respectfully submitted by



Bonnie Almon
Chair



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Message from the Chair

The *Nunavut Human Rights Act* came into force on November 4th, 2004. The *Act* established the Tribunal as a direct access human rights model. I am happy to present our eighth annual report for the period commencing April 1, 2015 and concluding on March 31, 2016.

The highlight of this reporting period is that the Tribunal has maintain full strength with members. Now that the Tribunal consist of 5 members, they are able to complete the part 4 decision in a timely manner.

Each year since it opened its door, the Tribunal has received many inquiries (questions about rights and responsibilities under the *Nunavut Human Right Act*) and Notifications (claims of discrimination or harassment under the *Act*). In recent years, human rights inquiries and Notifications have been on the rise with this trend continuing in 2015-2016.

While the Notifications that are being filed with the Tribunal are increasingly more complex, the Tribunal continues to resolve many cases each year using its mediation process and through decisions made by Tribunal members. While there were no public hearings in this reporting period, a number of

Part 4 decisions (decisions on whether to dismiss or continue a Notification) were issued in 2015-2016. These decisions dealt with allegations of sexual harassment, failure to accommodate persons with disabilities, family status discrimination, pregnancy discrimination and discrimination on the basis of sexual orientation and gender identity to name just a few.

The Tribunal has a robust voluntary mediation process, whereby, the parties involved in a Notification may elect to engage in facilitated discussions toward resolving the issues raised by a Notification under the *Nunavut Human Rights Act*. Over the years, the Tribunal has been successful in resolving a great majority of these cases to the satisfaction of the parties, while ensuring that the specific human rights and public interests are central to the resolutions. Where mediation is successful, a public hearing to resolve the Notification is not required. This success has resulted in an overall low number of public hearings.

The NHRT continues to work to increase awareness about the *Nunavut Human Rights Act* and how to contact the Tribunal if a per-

son feels that his or her human rights have been violated. Along with public awareness the Tribunal continues working toward the publishing of information on our Part 4 Decisions. As well, we are committed to providing a fair and timely adjudication of human rights disputes in the territory.

As we reflect back on the previous decade, we are pleased to note that the Tribunal's early consultation with community elders (primarily in Igloolik), which revealed a clear IQ link to the mediated resolution of conflicts between community members, has become a major strength in our ability to facilitate the resolution of human rights disputes.

Bonnie Almon
Chair



For the past 3 years Ms. Almon was employed as the Director of Community Wellness for the Hamlet of Kugluktuk. She is also a Justice of the Peace. Bonnie has a Bachelor's Degree in Social Work. She brings an extensive and varied background in social justice and human rights.



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nhrt.ca

WHAT IS THE NUNAVUT HUMAN RIGHTS ACT?

The *Nunavut Human Rights Act* is an *Act* that was passed into law by the Legislative Assembly to provide all people of Nunavut with the guarantee that they shall have an equal opportunity to enjoy a full and productive life. It places responsibility on Government, all public agencies, boards and commissions and persons in Nunavut to fulfill this guarantee by not engaging in discrimination and harassment. Failure to treat equally opportunity is subject to the provisions set forth in the *Act*.

Application of the *Act* is to be done within the IQ framework. The *Act* does not add or take away protections provided for in the Nunavut Land Claims Agreement.

The *Act* makes it against the law for any person(s), agency, business or government to unlawfully discriminate against any person in Nunavut.

WHAT DOES IT MEAN TO DISCRIMINATE?

To unlawfully discriminate is to deny benefits or impose burdens, obligations or disadvantages on persons or groups of people who have any one of the characteristics mentioned in s. 7(1) of the *Act*. The *Act* does not allow discrimination in the provision of services, goods or facilities or in the hiring of people for employment.

Here are two examples:

- A young woman is not hired for the job because she is pregnant (discrimination on the basis of sex and gender)
- A hotel refuses to provide a room to a single mother with two children. (discrimination on the basis of family status)

The *Act* does not allow discrimination in certain areas such as:

- While people are looking for work or at work;
- Obtaining or maintaining a membership in an employee's organization;
- Accessing goods, services, facilities or contracts that are available to the general public;
- Renting or attempting to rent any residential or commercial building; and
- Lastly, publishing or displaying information or written material.

The *Act* protects people from unequal treatment based on grounds or personal characteristics that are listed in the *Act*.

The seventeen grounds are grouped as follows:

- Race, colour, ancestry, ethnic origin, citizenship and place of origin are five grounds closely related to the person's cultural identity.
- Religion and creed
- Age
- Disability
- Sex, and sexual orientation
- Marital and family status
- Pregnancy (includes adoption of a child by a man or woman)
- Lawful source of income
- A conviction for which a pardon has been granted.

It is unlawful to harass anyone based on any one of the prohibited grounds. Harassment is "unwelcome" comments or conduct.

The *Act* established a Tribunal to administer and make decisions under the *Act*. The Tribunal is made up of five individuals (or members) who are each appointed for a four year term. As of March 31st, 2016, the Tribunal consisted of members Bonnie Almon (Chair), Ookalik Curley (Vice-Chair), Maureen Doherty, Amanda Main Hanson and Trisha Makpah.

Maureen Doherty is Coordinator of Community Programs Kivalliq for Nunavut Arctic College. She holds a Master of Adult Education and has worked in the field of adult education for many years since her arrival north in 1983. Maureen served as a Justice of the Peace in the Baffin Region and was Executive Director of Qullit Nunavut Status of Women. She has been active in the Women's, Human Rights, Disability and Pride Committees within the Public Service Alliance of Canada. A longtime resident of Nunavut, she has lived in Kimmirut, Arctic Bay, Nanisivik, Iqaluit, Igloolik and Rankin Inlet. Maureen served on the Steering Committee for the creation of the Nunavut Human Rights Act.



WHAT IS A TRIBUNAL?

The word "*Tribunal*" is borrowed from a Latin word, *tribunus*, meaning "magistrate" or "head of a tribe". Tribunals in Canada are *persons or groups of persons* created by legislation to administer laws that are within the authority of the legislative body of a "government".

A Tribunal is established according to the legislation and gets its authority and "power to act" from that legislation. The Nunavut Human Rights Tribunal's authority and power to act is set forth in the *Nunavut Human Rights Act*.

Tribunals are different from "Boards" and "Agencies" established by legislation because of their "adjudicative" role. To adjudicate is to "judge" or "decide". Having an adjudicative role also means that decisions must be made in a certain way, i.e. by following certain legal rules and principles, including the Principles of Fundamental Justice.

Because human rights are part of the "supreme law of Canada", legislation that protects and enforces human rights in provinces and territories is referred to as "quasi-constitutional" law. "Quasi" simply means "as if it were" constitutional law.

The effect of human rights law being "quasi-constitutional" is that it is treated as extremely important law, law that is remedial in nature (law that is intended to correct wrongs rather than punish) and law that will be interpreted liberally so as to achieve its purposes, e.g. the purpose(s) set out in the Preamble to the the *Human Rights Act*. It also means that in most situations, The *Act* will take precedence over other territorial laws.

The Nunavut Human Rights Tribunal is a direct access model unlike its counterparts in other territories and provinces which have commissions. The only other direct access Tribunals are in British Columbia and Ontario. The direct access model means that the Tribunal makes all the decisions on matters before it. Staff are to provide information to the public on procedures and assist Applicants in completing Notifications. “Notifications” are documents completed by Applicants which start legal proceedings before the Tribunal.

The Tribunal is the decision maker at all stages of proceedings defined under the *Act*. Tribunal members are to be independent of their appointers (the Government of Nunavut) and impartial (without favor to anyone) in all proceedings before the Tribunal.

WHAT DO I DO IF I THINK MY HUMAN RIGHTS HAVE BEEN VIOLATED?

An individual should contact the Nunavut Human Rights Tribunal Office, located in Coral Harbour to request information and a form to complete.

If you can answer **YES** to all of the following questions, you should consider filing a Notification:

- Did the events occur within the last two years? (exceptions can be made)
- Did they occur within Nunavut?
- Did they occur while seeking a service other than from a bank, airline, RCMP, a Federal government department such as Human Resources Canada, Department of Indigenous and Northern Affairs Canada?
- Was the denial of a benefit or creation of a burden, obligation or disadvantage related to one or more than one of the seventeen grounds listed above?

An individual should consider getting legal advice and representation from a lawyer or the Nunavut Legal Services Board.

HOW DO I FILE AN ALLEGED ACT OF DISCRIMINATION?

A Notification form will need to be completed. Forms are available upon request from the Tribunal Office. A Notification is a form or application that must be completed by the person who says he or she has been discriminated against. This person is called the **Applicant**. The form can be completed orally or in writing. It can be mailed, faxed, or emailed to the office in any of the four official languages to the attention of the Tribunal Executive Director. Some questions found in a Notification are :

- Who did it?
- What happened?
- Is it still occurring?
- Who else knows about it or saw it?
- How were you affected?
- What would make it right?

The Notification can also be filed orally. In addition, the Notification can be filed on behalf of an Applicant with her or his informed consent. Any documentation that will support the application may be attached to the Notification. Again: whenever possible, we suggest that you seek the services of a lawyer. You may also have other persons in your family or community to assist you in communicating with our office.

The individual(s) or organization(s) named in the Notification as allegedly committing the act of discrimination is known as the **Respondent**. All people and/or organization listed in both the Notification and Reply are known as the **Parties**.

Trisha Makpah was appointed to the Nunavut Human Rights Tribunal in December, 2014. She currently lives in Rankin Inlet where she grew up and has been working for the Government of Nunavut for 15 years, currently with Nunavut Liquor Management as the Manager, Licensing & Enforcement. Trisha has 4 children between the ages of 1 and 18. She has a Diploma in Management Development and is currently taking courses through correspondence. She is the Chairperson for a local non-profit organization (volunteer position). She has always been interested in the adjudicative process.



WHAT IS A “HUMAN RIGHTS OFFICER”?

The first person that you speak to in the Nunavut Human Rights Tribunal Office is likely to be a Human Rights Officer. Human Rights Officers help you understand the practices and procedures set out in the *Act*, how to file Notifications and to make referrals to other agencies if necessary. They will also look after any special needs that parties may have, e.g. interpreter services. Anything that is said to a Human Rights Officer or the Executive Director is confidential.

WHAT HAPPENS AFTER I FILE MY NOTIFICATION?

The Tribunal Executive Director will review the Notification to ensure that all or enough information has been provided such as:

- contact information for the Applicant and Respondent has been provided;
- the document is signed;
- the grounds of discrimination are indicated; and
- all details of the incident are provided from beginning to end.

A copy of the Notification is sent to the person(s) or organization(s) listed as the Respondent in the Notification. The Respondent has the right to reply to a Notification. The Respondent should complete a Reply to Notification form and return it to the Tribunal Office. The Respondent has 60 days to file a Reply. Upon receiving the Reply, a copy is forwarded to Applicant.

The Notification and Reply are reviewed by the Tribunal – **Part 4 Review** – to decide whether to continue with proceedings or dismiss the Notification using the criteria set out in Section 23 and 24 of the *Act*. The Tribunal will consider whether:

- the events occurred within the last two years;
- whether the situation should be dealt with under other legislation;
- whether the situation is very minor, not understandable, silly or made for improper reasons;
- whether the complaint is related to one of the prohibited grounds;
- whether there is some evidence of discrimination and no irrefutable defense; and
- whether the applicant was offered a reasonable settlement.

The Tribunal will provide a written decision of the Part 4 Review to both the Applicant and Respondent. The decision will either be to continue with proceedings or to dismiss the Notification.

The Tribunal may then try to settle the Notification using Tribunal members, independent mediators, community elders or other organizations. Mediation is voluntary and the Applicant and Respondent are encouraged to enter into mediation to settle the matter. If the matter is settled and a settlement agreement is made, the Notification is finished. However, if either party fails to keep the promises listed in the settlement agreement, it may be filed with the Nunavut Court of Justice and enforced through the Court. If no settlement is reached, the Tribunal will hold a formal, public hearing at which both

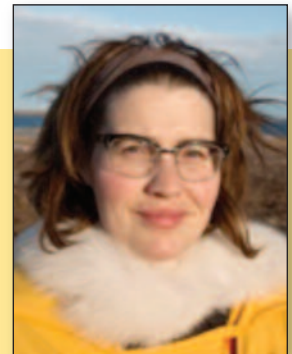
the Applicant and Respondent may give evidence under oath and call witnesses.

A Tribunal member who has had no contact with the Applicant or Respondent during any of the proceeding process will be assigned to hear the Notification. The hearing process involves the hearing of evidence by affidavit and in-person (under oath) through witnesses, much like what is done in a court of law. The parties may have legal counsel.

After hearing evidence and the arguments of the Applicant and Respondent, the Tribunal will decide whether the Applicant has been discriminated against, and, if so, what should be done to correct the situation.

A written decision is made documenting the evidence that was heard and how the law was applied. A final decision may include an Order for a party to compensate the other party, to stop the prohibited conduct, to undertake a system wide program, to apologize or take any other corrective action the Tribunal feels is just. Orders of the Tribunal are enforceable in the Nunavut Court of Justice.

Amanda Hanson Main is a self-employed contractor focused on regulatory processes in Nunavut, environmental and socio-economic assessment, and community and stakeholder engagement. She holds a Master of Science and has worked in the field of environmental assessment for nearly a decade, the majority of which was during her 8 years with the Nunavut Impact Review Board where she served as the Director, Technical Services. Amanda has spent terms sitting as a Board Member to the Alberta Public Interest Research Group and as a Councillor for the Hamlet of Cambridge Bay. She has also dedicated many hours to community, youth, and hockey programs in Nunavut. Amanda relocated from Alberta to Cambridge Bay in 2007 and more recently, in 2015 she and her family moved to her husband's hometown of Arviat.



HOW MANY INQUIRIES AND NOTIFICATIONS HAS THE TRIBUNAL RECEIVED IN THIS REPORTING PERIOD?

The Tribunal tracks both inquiries and notifications that come to the attention of the Staff. During the reporting period of April 01, 2015 to March 31st, 2016; six notifications and 76 inquiries were received. This represents an equal balance in the number of notifications received over the previous fiscal year. The number of inquiries received also increased by seven more than the previous year.

We continue to have great success with mediation. As of March 31, 2016, all mediations that commenced resulted in a settlement.

The case load has been steady in the reporting period. Though there was an equal balance in the number of notifications received, many files were closed as settlements were reached, hearings were conducted and Part 4 decisions to close or dismiss files were rendered.

Table 1: Activity During Reporting Period									
	15-16	14-15	13-14	12-13	11-12	10-11	09-10	04-09	Total
Notifications Received	6	6	10	16	7	1	5	51	102
Inquiries Received	76	64	69	88	60	39	59	320	775
Settlement Proceedings	5	6	1	2	2	3	1	10	30
Decisions Issued	9	12	15	5	9	13	14	44	121
Pre-hearings	2	4	4	1	3	6	1	-	21
Hearings	0	0	-	-	2	-	-	-	2

Table 1 summarizes the activity of the Tribunal during the reporting period.

Table 2: Case Load Summary			
FY	Total	Open	%
15-16	102	17	17%
14-15	99	22	22%
13-14	92	17	18%
12-13	80	11	14%
11-12	64	13	20%
10-11	57	11	19%
09-10	56	18	32%
08-09	51	24	47%
07-08	44	25	57%
06-07	34	27	79%
04-06	17	11	65%

Ookalik Curley was born in and continues to live in Iqaluit, Nunavut. She has been with the Government of Nunavut for 10 years now and was an employee of the Municipality of Iqaluit for over 8 years. She is a graduate of Churchill Vocational Centre and received her Executive Certificate in Conflict Management from Stitt Feld Handy Group and the Faculty of Law, University of Windsor. She has been a member of various non-profit organizations in Iqaluit and is currently a member of Tukisigiavik Society and Labour Standards Board.



The average amount of time taken to issue a Part 4 decision as illustrated in Table 4. Notifications during this fiscal year were all presented to the Tribunal for Part 4 decisions as of March 31, 2016.

Table 3: Notification Status by each fiscal year									
Filed in:	15-16	14-15	13-14	12-13	11-12	10-11	04-10	Total	%
Stage									
Application	6	3	5	2	4	0	0	20	12%
Request for Reply	6	3	2	9	2	0	0	22	13%
Part 4 Review	6	2	2	9	1	0	0	20	12%
Request to Withdraw	0	1	1	0	0	0	0	2	1%
Mediation	0	5	3	1	0	0	1	10	6%
Inactive	1	2	2	2	0	0	9	16	9%
Dismissed	1	2	6	2	0	1	22	33	19%
Withdrawn	0	1	1	-	-	0	3	5	3%
Settled	3	2	0	1	-	0	16	22	13%
Prehearing	0	2	2	1	-	0	3	8	5%
Prehearing Decision Pending	0	3	6	-	-	0	1	10	6%
Hearing Order Pending	1	-	-	-	-	0	1	2	1%
Hearing Order Issued	1	-	-	-	-	0	1	2	1%
Total Active	15	18	14	22	7	0	6	82	48%
Total Closed	9	11	6	5	0	1	51	82	48%
Total Files	25	-	30	27	7	1	57	172	100%

Table 3 summarizes the status of all Notifications received since November 4, 2004. The number of decisions pending has decreased by half as the previous report.

Once a Part 4 Decision is rendered the next greatest challenge is to schedule Mediation sessions. Often the scheduling spans three (3) time zones. However, despite this, feedback that has been obtained from the Parties indicates that the teleconference Mediation sessions have been very productive and satisfying. Using the teleconference mode has not impeded the sessions nor full participation. Again parties indicated that the pre-Mediation conferences were very beneficial.

Table 4: Duration of Filing & Issuing Decisions (in Years)		
FY	Filing	Decisions
15-16	0.3	0.6
14-15	0.6	1
13-14	0.7	0.5
12-13	0.6	n/a
11-12	0.7	n/a
10-11	1	0.4
09-10	1.6	0.5
08-09	1.9	0.9
04-08	2.5	1
All Active	1	0.1
All Closed	2	0.6
All Files	2	0.6

Table 5: Mediation								
Filed in:	15-16	14-15	13-14	12-13	11-12	10-11	05-10	Total
Total Files	6	6	10	16	7	1	56	102
Potential Mediations	1	2	4	-	-	0	30	37
Mediation Attempts	1	3	3	-	-	-	27	34
Settlements	1	1	0	1	-	-	17	20
External Settlements	1	-	1	-	-	-	8	9
Advance to Hearing	0	0	0	-	-	-	2	2

Table 5 presents the rate of mediation in our process. During this reporting period, there was 1 mediation settled.

WHERE ARE THE ALLEGED ACTS OF DISCRIMINATION OCCURRING?

The Notifications have been filed from across Nunavut. Breakdown by community is not provided to protect identity of both applicants and respondents. Often notifications are filed

by individuals once they have left Nunavut or are in the process of moving out of Nunavut.

The majority of the inquirers and applicants have noted that they obtained information about the Tribunal from publications posted in their community office business and from the media.

	15-16		14-15		13-14		12-13		11-12		10-11		04-10		Total		Nunavut
	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%	%
Baffin	4	80%	6	60%	7	44%	10	63%	6	86%	-	-	36	64%	69	66%	60%
Kivalliq	0	0%	3	30%	3	19%	1	6%	1	14%	-	-	15	27%	23	22%	15%
Kitikmeot	1	20%	1	10%	0	0%	5	31%	0	-	1	100%	4	7%	12	11%	24%
Outside Nunavut	-	-	-	-	-	0%	-	-	0	-	-	-	1	2%	1	1%	0%
Total	5	100%	10	100%	10	100%	16	100%	7	100%	1	100%	56	100%	105	100%	100%

	15-16		14-15		13-14		12-13		11-12		10-11		04-10		Total		Nunavut
	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%	%
Baffin	32	57%	41	73%	46	52%	36	41%	28	47%	12	31%	64	39%	259	45%	49%
Kivalliq	15	27%	18	32%	38	43%	24	27%	26	43%	16	41%	48	29%	185	32%	35%
Kitikmeot	5	9%	1	2%	9	10%	8	9%	1	2%	7	18%	20	12%	51	9%	9%
Outside Nunavut	2	4%	3	5%	6	7%	6	7%	2	3%	3	8%	14	9%	36	6%	6%
Not Given	2	4%	6	11%	3	3%	14	16%	3	5%	1	3%	18	11%	47	8%	7%
Total Inquiries	56	100%	69	100%	88	100%	60	100%	39	100%	39	100%	164	100%	578	100%	100%

The Nunavut Human Rights Tribunal office has received inquiries from across Canada.

OCCURRED WHILE

Again the majority of the alleged acts took place while seeking work or at work for both notifications and inquiries.

86% of the Notifications during this fiscal year were while working or seeking work meanwhile 14% of the notifications were while seeking services and goods.

Activity	15-16		14-15		13-14		12-13		11-12		10-11		04-10		Total	
	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%
Working or Seeking work	6	86%	6	100%	5	50%	10	63%	5	71%	1	100%	75	75%	108	73%
Membership	-	0%	0	0%	-	0%	-	-	-	-	-	-	10	10%	10	7%
Seeking Services & Goods	1	14%	0	0%	3	30%	5	31%	1	14%	-	-	15	15%	25	17%
Tenancy	-	0%	0	0%	2	20%	1	6%	1	14%	-	-	-	-	4	3%
Publications	-	0%	0	0%	-	0%	-	-	-	-	-	-	-	-	-	-
Filing	-	0%	0	0%	-	0%	-	-	-	-	-	-	-	-	-	-
Total	7	100%	6	100%	10	100%	16	100%	7	100%	1	100%	100	100%	147	100%

The ground most frequently listed in the Notifications received in the 15-16 fiscal year was Family Status. Some examples of grounds not covered are employer-employee relations issues, conduct of the RCMP, conditions of territorial and federal incarceration institu-

tions, and parental access to children. Disability ranked the highest in Inquiries but race ranked the highest in Notifications.

The majority of inquiries are received by phone and email.

Table 9: Inquiry Occurred While

	15-16		14-15		13-14		12-13		11-12		10-11		04-10		Total	
	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%
Working or Seeking work	52	68%	36	56%	41	59%	50	57%	40	67%	25	64%	368	80%	612	72%
Seeking Membership	-	0%	-	0%	-	-	-	-	-	-	-	-	2	0%	2	0%
Seeking Goods, Services, etc	10	13%	15	23%	15	22%	26	30%	5	8%	1	3%	49	11%	121	14%
Tenancy	-	0%	-	0%	13	19%	12	14%	3	5%	-	-	12	3%	40	5%
Publications	-	0%	-	0%	-	-	-	-	-	-	-	-	1	0%	1	0%
Filing a Complaint with NHRT	-	0%	-	0%	-	-	-	-	-	-	-	-	4	1%	4	0%
None of the Above	14	18%	13	20%	-	-	-	-	12	20%	13	33%	22	5%	74	9%
Total Inquiries	76	100%	64	100%	69	100%	88	100%	60	100%	39	100%	458	100%	854	100%

Table 10: Grounds Listed in Notifications

	15-16		14-15		13-14		12-13		11-12		10-11		04-10		Total	
	Count	%	Count	%	Count	%	Count	%	Count	%	Count	%	Count	%	Count	%
Total Notifications	6	-	10	-	10	-	16	-	7	-	1	-	56	-	90	-
Age	-	-	-	-	-	-	-	-	-	-	-	-	8	8%	8	5%
Ancestry	1	8%	-	-	-	-	-	-	-	-	1	33%	7	-	8	5%
Citizenship	1	8%	-	-	-	-	1	6%	-	-	-	-	3	15%	4	2%
Colour	1	8%	3	30%	3	30%	-	-	-	-	-	-	11	15%	14	8%
Creed	1	8%	-	-	-	-	-	-	-	-	-	-	5	-	5	3%
Disability	1	8%	-	-	-	-	2	13%	4	50%	-	-	16	-	22	13%
Ethnic	1	8%	-	-	-	-	2	13%	-	-	1	33%	19	-	22	13%
Family Status	2	17%	2	20%	2	20%	3	19%	1	13%	-	-	5	-	11	6%
Harassment	-	-	-	-	-	-	-	-	-	-	-	-	1	-	1	1%
Lawful Source of income	-	-	1	10%	1	10%	1	6%	2	25%	-	-	2	-	6	3%
Pardoned Conviction	-	-	-	-	-	-	-	-	-	-	1	33%	-	-	1	1%
Place of Origin	1	8%	3	30%	3	30%	-	-	-	-	-	-	14	23%	17	10%
Pregnancy	1	8%	-	-	-	-	-	-	-	-	-	-	1	-	1	1%
Race	1	8%	-	-	-	-	-	-	1	13%	-	-	34	23%	35	20%
Religion	-	-	-	-	-	-	1	6%	-	-	-	-	1	-	2	1%
Sex	1	8%	1	10%	1	10%	4	25%	-	-	-	-	7	-	12	7%
Sexual Orientation	-	-	-	-	-	-	1	6%	-	-	-	-	1	-	2	1%
Harassment-s.7.6	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Harassment-s.15	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Not Covered	-	-	-	-	-	-	1	6%	-	-	-	-	-	15%	1	1%
Total	12	100%	10	100%	10	100%	16	100%	8	100%	3	100%	135	100%	172	100%

WHAT TYPES OF DISCRIMINATION ARE BEING ALLEGED?

Family Status was listed most frequently as a ground in the notifications that were filed in the 15-16 fiscal year. Contact is primarily made with the Tribunal office by phone. To a lesser extent email is used.

Family Status was also listed most frequently as a ground in the inquiries for 15-16 fiscal year. No inquiries were made via Canada Post nor by fax.

	15-16		14-15		13-14		12-13		11-12		10-11		04-10		Total	
	Count	%	Count	%	Count	%	Count	%	Count	%	Count	%	Count	%	Count	%
Total Inquiries	76		69		102		88		60		39		379		807	
Age	2	3%	4	6%	3	4%	1	1%	3	4%	2	4%	8	2%	21	2%
Ancestry	1	1%	-	-	3	4%	-	-	2	3%	3	6%	11	3%	26	3%
Citizenship	-	-	2	3%	6	9%	3	3%	-	-	-	-	3	1%	4	0%
Colour	6	8%	7	10%	3	4%	5	6%	-	-	3	6%	5	1%	13	1%
Creed	1	1%	-	-	-	-	-	-	-	-	1	2%	2	0%	5	1%
Disability	2	3%	3	4%	7	10%	7	8%	3	4%	4	8%	44	10%	90	10%
Ethnic Origin	-	-	1	1%	3	4%	-	-	5	7%	2	4%	25	6%	56	6%
Family Status	11	14%	-	-	6	9%	-	-	4	6%	-	-	9	2%	22	2%
Lawful Source of income	2	3%	-	-	6	9%	-	-	-	-	-	-	5	1%	9	1%
Marital Status	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Pardoned Conviction	2	3%	1	1%	2	3%	-	-	-	-	-	-	-	-	-	-
Place of Origin	4	5%	-	-	10	14%	4	5%	-	-	-	-	6	1%	11	1%
Pregnancy	1	1%	2	3%	4	6%	-	-	-	-	-	-	9	2%	16	2%
Race	9	12%	-	-	9	13%	9	10%	5	7%	5	10%	19	5%	48	5%
Religion	-	-	7	10%	-	-	-	-	-	-	-	-	6	1%	11	1%
Sex	2	3%	16	23%	21	30%	13	15%	4	6%	3	6%	25	6%	54	6%
Sexual Orientation	2	3%	2	3%	-	-	3	3%	1	1%	-	-	2	-	5	1%
Harassment-s.7.6	1	1%	-	-	-	-	-	-	-	-	1	2%	5	1%	9	1%
Harassment-s.15	-	-	-	-	-	-	-	-	-	-	-	-	3	1%	6	1%
Not Covered	24	32%	-	-	7	10%	-	-	29	43%	18	37%	146	35%	309	34%
Not Given	6	8%	24	35%	12	17%	43	49%	11	16%	7	14%	88	21%	191	21%
Total**	76	100%	69	100%	102	100%	88	100%	67	100%	49	100%	421	100%	906	100%

OTHER OBSERVATIONS

Hearings are to adhere to the *Public Inquiries Act*. The Tribunal has not held a hearing during this fiscal year. All matters before the Tribunal are confidential unless a hearing is scheduled. The hearing proceedings are public and the decisions rendered become a public record.

Staff have noted that the lack of face-to-face interaction with parties and the general public has been a challenge. Unless a notification is filed from Coral Harbour, no face-to-face contact will be made with the parties until the matter gets to a hearing. In addition business affairs and administration among Members, legal counsel and staff are mostly completed by teleconference.

The lack of face-to-face interaction with clients and the Tribunal is an added challenge. Great attention has been placed on keeping staff and Members engaged. Regardless of where the Tribunal office could have been located, this issue would still prevail, given the small population of each of the Nunavut communities. Aside from Iqaluit, less than 10% of Nunavut's population would have direct access to the Tribunal's services. This aspect begs the question: "Where is the human element in human rights?"

Currently, the mandate of the Tribunal does not include public education nor should it. Public education and outreach is the responsibility of the Nunavut Legal Services Board (s. 49). Education is the backbone of any human rights code.

Nunavut Legal Services Board currently has a full-time poverty lawyer on staff who deals with legal matters outside criminal and family law. The poverty legal counsel has assisted many individuals in filing Notifications.

Several applicants have related to the Staff that they are unable to secure legal counsel that have the capacity to deal with human rights issues. Many legal counsels are not taking any new clients on.

OTHER ACTIVITIES

Tribunal Staff participated in the 2013 Canadian Council of Administrative Tribunals. Also, they participated in the Canadian Association of Statutory Human Rights Agencies. These conferences provided staff an opportunity to network with colleagues from across Canada.

Staff have been able to participate in GN sponsored professional development activities during this reporting period.



Tradition Inuit fishing weir

Opinion

In our opinion, the statement of operations of the Nunavut Human Rights Tribunal presents fairly, in all material respects the revenues and expenses connected with operating the Tribunal in accordance with the Human Rights Act of Nunavut for the year ended March 31, 2016 in accordance with the basis of accounting disclosed in Note 2 to the statement of operations.

Report on Other Legal and Regulatory Requirements

We further report, in accordance with the Financial Administration Act, in our opinion, proper books of account have been kept by the Nunavut Human Rights Tribunal, the statement of operations is in agreement therewith and the transactions that have come under our notice have, in all significant respects, been within the statutory powers of the Nunavut Human Rights Tribunal.



Iqaluit, Nunavut
November 4, 2016

CHARTERED ACCOUNTANTS

NUNAVUT HUMAN RIGHTS TRIBUNAL NOTES TO THE STATEMENT OF OPERATIONS FOR THE YEAR ENDED MARCH 31, 2015

1. NATURE OF THE ORGANIZATION

The Nunavut Human Rights Tribunal operates under the *Human Rights Act* of Nunavut.

The purpose of the Tribunal is to adjudicate over human rights issues arising in Nunavut. The Tribunal is a public agency and is exempt from income tax. The Tribunal's continued existence is dependent upon the continuing support from the Government of Nunavut.

2. SIGNIFICANT ACCOUNTING POLICIES

The accounting policies followed by the Tribunal are in accordance with the Financial Administration Manual of the Government of Nunavut and include the following significant accounting policies:

(a) Use of Estimates

The preparation of financial statements requires the Tribunal to make estimates and assumptions that affect the reported amounts of revenue and expenses during the year. Actual results could differ from those estimates.

(b) Revenue Recognition

Restricted contributions related to general operations are recognized as revenue in the year in which the related expenses are incurred. Unrestricted contributions are recognized in the year received or receivable if the amount to be received can be reasonably estimated and collection is reasonably assured.

(c) Accrual Basis

The statement of operations has been prepared on the accrual basis of accounting.

3. GOVERNMENT OF NUNAVUT FUND BALANCE

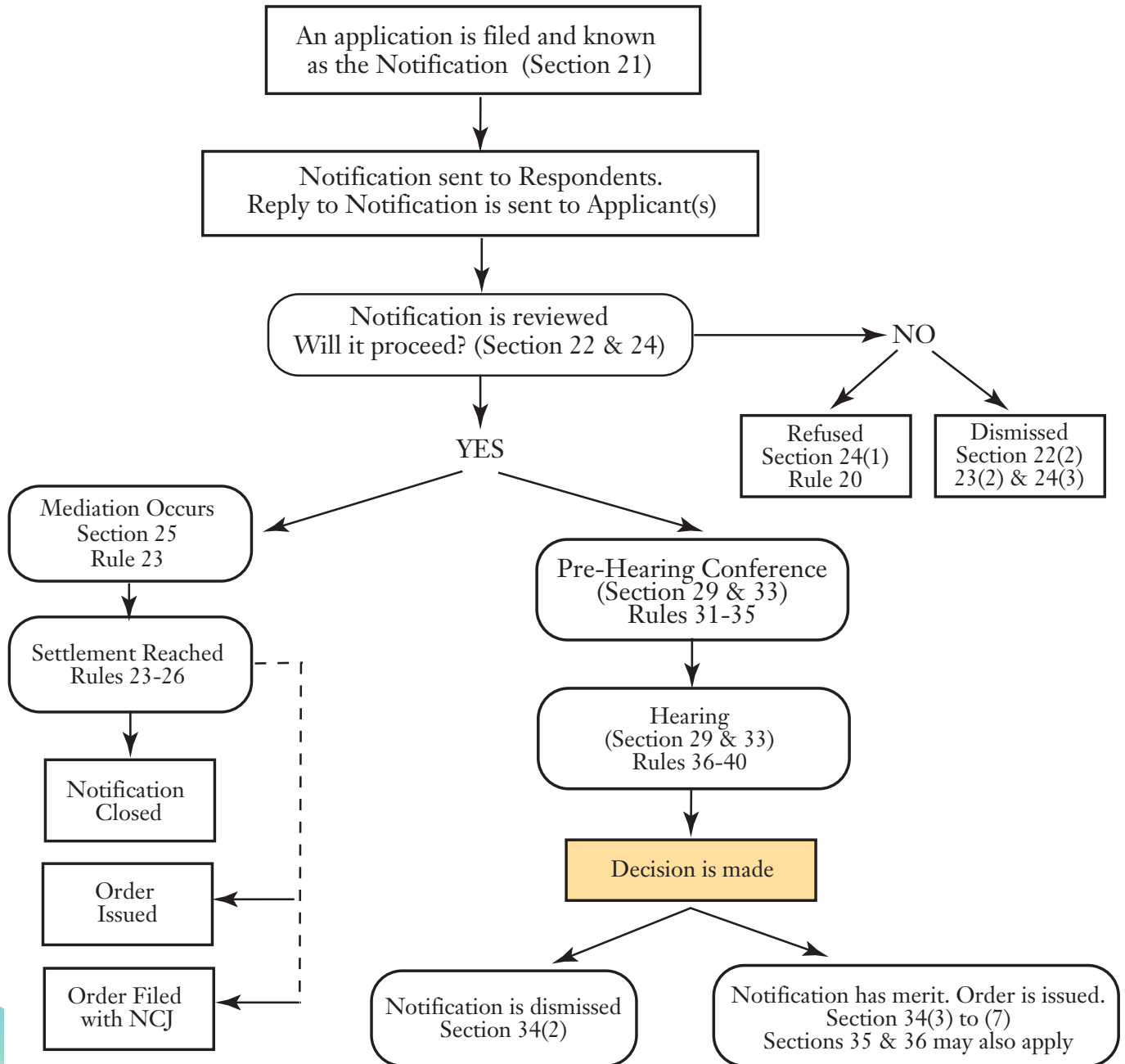
	2016	2015
Opening balance	\$ 2,577,855	\$ 2,568,757
Revenues	(595,312)	(812,000)
Contributions withheld	595,312	825,763
Changes in:		
GST	(8,483)	3,973
Accounts payable and accrued liabilities	(1,055)	(8,638)
Closing balance	<u>\$2,568,317</u>	<u>\$ 2,577,855</u>

Amounts due to the Government of Nunavut are non-interest bearing, unsecured and have no specific terms of repayment.

	Budget 2016 (Unaudited)	Actual 2016	Actual 2015
REVENUE			
Government of Nunavut	\$ 812,000	\$ 595,312	\$ 812,000
EXPENSES			
Advertising and publications	15,000	17,044	43,406
Conferences and catering	0	1,620	2,600
Fees, memberships, and licences	0	10,837	24,148
Freight and courier fees	0	1,539	7,507
Honorarium	19,000	24,816	42,940
Legal counsel fees	45,000	69,075	149,748
Office	20,000	18,399	31,494
Other	20,000	39	0
Salaries and benefits	533,000	388,570	459,754
Training	0	0	4,216
Translation services	0	105	1,035
Travel, accommodations, and incidentals	160,000	63,268	58,915
	<u>812,000</u>	<u>595,312</u>	<u>825,763</u>
EXCESS EXPENSES	\$ 0	\$ 0	\$ (13,763)

Appendix 1: Notification Process

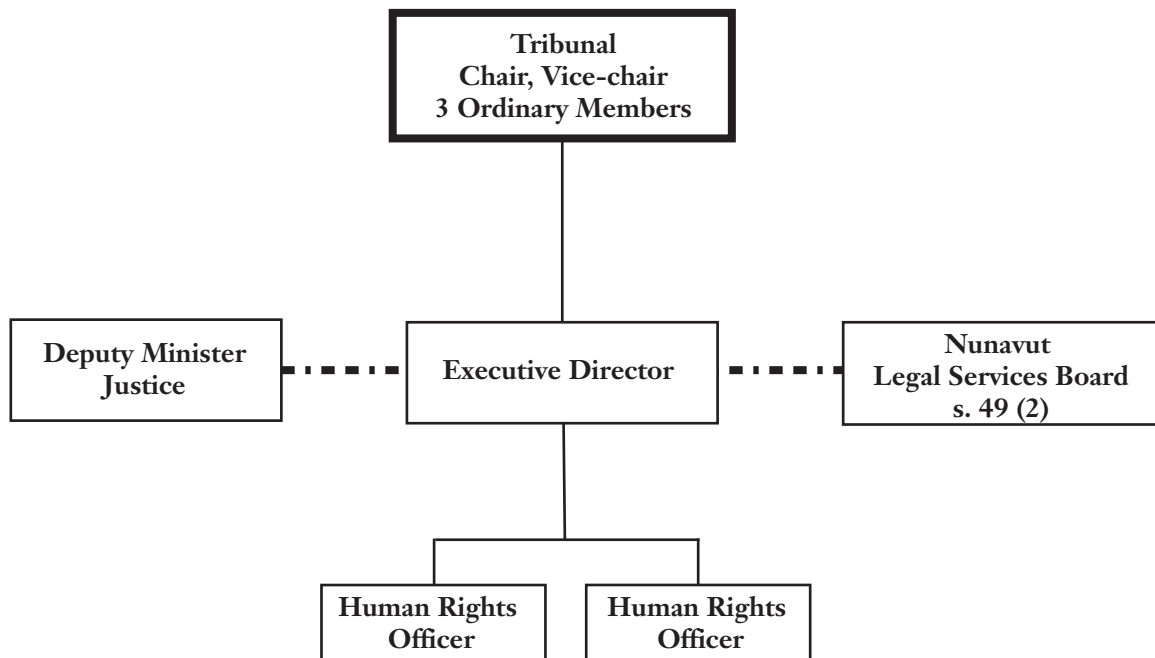
Nunavut Human Rights Act Notification Process



Notes:

- If a settlement is not fulfilled, an order may be issued by the Tribunal (Section 26).
- Any Party to the Notification can appeal to the Nunavut Court of Justice within 30 days after the service of a Decision or Order of the Tribunal (Section 38).
- Special Remedies under Part 6 can be applied.

Appendix 2: Nunavut Human Rights Tribunal Organizational Chart



Note: - - - - - denotes indirect reporting relationship

Appendix 3:

Rules of Procedure

RULES OF PROCEDURE OF THE NUNAVUT HUMAN RIGHTS TRIBUNAL

Purpose of the Rules

1. The purpose of these Rules is to assist Applicants and Respondents in obtaining just, fair and timely decisions and orders from the Tribunal.
2. These Rules must be followed during the course of proceedings before the Tribunal unless the Tribunal orders or directs otherwise.
3. If a Party fails to follow these Rules, the Tribunal may make any order or decision it considers appropriate in the circumstances including an order for the payment of costs.
4. Where these Rules are in conflict with the *Nunavut Human Rights Act* (the “*Act*”) or the *Regulations*, the *Act* or the *Regulations*, as the case may be, will prevail.

Definitions

5. For the purpose of these Rules:
 - (a) “Accommodation” refers to the adapting of facilities, services and procedures to meet the needs of individuals and groups of individuals.
 - (b) “Applicant” means any person (s) who completes a Notification that is received by the Tribunal.
 - (c) “**Human Rights Officer**” means **any employee of the Tribunal.**
 - (d) “Mediation” includes any problem solving process other than a hearing, including discussions and negotiations, between an Applicant and Respondent that the Tribunal deems acceptable.
 - (e) “Notice” means mailing by registered mail to the last known address of the Party unless personal service is affected by a Party or the Tribunal.
 - (f) “Notification” means a written record made by or on behalf of an Applicant under s. 21 of the *Act*.
 - (g) “Party” means an Applicant or a Respondent or any other person described in s. 28 of the *Act*.

- (h) “Record” means documents that the Parties to a hearing agree to present to the Tribunal prior to a Hearing.
- (i) “Reply” or “Reply to a Notification” means a written record in response to a Notification that is received by the Tribunal.
- (j) “Respondent” means any person(s) named in a Notification who is alleged to have contravened the *Act*.
- (k) “Tribunal” means one or more members of the Human Rights Tribunal appointed under s. 16 of the *Act*.

Notifications and Replies

6. An Applicant may complete a Notification and a Respondent may complete a Reply, personally or with the assistance of another person, **including a Human Rights Officer**, in writing or orally.
7. Where an Applicant or Respondent is given assistance under Rule 6, the Notification or Reply must contain the following information:
 - (a) a signed and witnessed consent of the Applicant or Respondent; and,
 - (b) the name, address, telephone number and such other contact information as the Tribunal may require of the person giving assistance.
8. The English language, the French language, Inuktitut language or Inuinnaqtun language may be used to complete a Notification or a Reply and may be used in any other correspondence or communications with the Tribunal.
- 9.1 A Notification must be filed with the Tribunal within two (2) years of the last alleged contravention of the *Act*.
- 9.2 **If a Notification received by the Tribunal contains allegations which exceed the 2 year limitation period contained in s. 23 of the *Act*, the Tribunal will draw the Respondent’s attention to such allegations and, if the Respondent does not consent to the filing of the Notification, the Tribunal will fix a date for the hearing of the Respondent’s application to dismiss the Notification, upon Notice to both parties.**
10. The Tribunal may effect service of a Notification on the Respondents personally or by registered mail. If registered mail is used, the effective date of service will be the **date of item accepted at Canada Post** appearing on Canada Post website.
11. A Reply must be filed with the Tribunal within sixty (60) days of service of a Notification upon a Respondent.
12. A Human Rights Officer may require any Party to fully complete or clarify the contents of a Notification or Reply before delivering it to the Tribunal.
13. The Tribunal will acknowledge in writing the receipt of Notifications and Replies and will provide Respondents with a copy of an Applicant’s completed Notification and Applicants with a copy of a Respondent’s completed Reply.
- 14.1 **Applicants and Respondents are required to advise the Tribunal of any change in contact information.**
- 14.2 **If an Applicant or Respondent fails to respond to communications from the Tribunal within a reasonable period of time, the Tribunal may give Notice of any further proceedings at the last known address of the Party.**
15. If an Applicant or a Respondent fails to respond to any Notice given by the Tribunal which requires a Party to follow a procedural direction within a fixed period of time, the Tribunal may:
 - (a) in the case of an Applicant, dismiss the complaint in accordance with s. 24(3)(a) of the *Act*; or,
 - (b) in the case of a Respondent, fix a date for hearing without further notice to the Respondent.
16. **The Tribunal may allow an Applicant or a Respondent to amend a Notification or Reply, or extend or abridge any period of time fixed under these Rules, by mutual consent or upon application to the Tribunal.**
17. The contents of filed Notifications and Replies will not be disclosed to the public by the Tribunal before a hearing is directed under s. 27 (1) of the *Act*.

Special Remedies

18. An Applicant shall give notice to the Tribunal of any application to a Judge made under Sections 39 and 40 of the *Act* and shall file with the Tribunal a copy of any judgment, reasons for judgment or Order resulting from such application.

Decisions of the Tribunal

19. The Tribunal will file and serve upon the Parties to a Notification written reasons for all decision made under Part 4 or Part 5 of the *Act*.

Settlement Proceedings

20. The Tribunal may attempt to effect a settlement of the allegations contained in a Notification by using whatever resources and means, including mediation, it deems acceptable.
21. The Parties to a complaint may seek the assistance of such persons to help them effect a settlement as they deem necessary or advisable subject always to the discretion of the Tribunal to exclude persons whose presence during settlement proceedings are neither necessary nor appropriate.
22. Parties (and any other persons who participate in settlement proceedings) agree to participate in settlement proceedings relating to allegations contained in a Notification are deemed to have agreed as follows:
 - (a) that the proceedings are private and confidential as between the Parties and the other participants and may not be disclosed to any person who is not a Party to the settlement proceedings nor be used in any other proceedings of any kind arising from a Notification;
 - (b) that they shall make full and complete disclosure of all relevant information, documents and materials, each to the other, that may reasonably be expected to be important to achieving a mutually satisfactory outcome of the settlement proceedings;
 - (c) that an agreement resulting from settlement proceedings initiated by the Tribunal shall be reviewed by the Tribunal;

- (d) that the Tribunal may require the Parties to consent to an order setting out the terms and conditions of settlement.
23. An order resulting from settlement proceedings may be filed and enforced in the same manner as an order resulting from a hearing.
24. Nothing in this section is intended to prevent Applicants and Respondents from entering into settlement discussions on their own and making agreements in relation to a Notification. Any agreement so made is subject to Rules 22 (c) and (d) and 23 herein.
25. Where a settlement agreement is made between Parties to a Notification, the Applicant may request in writing that further proceedings before the Tribunal be discontinued subject to the review conducted by the Tribunal under Rule 24.
26. The Tribunal may reject a request to discontinue proceedings in relation to the settlement of a Notification where, in the view of the Tribunal:
 - (a) the settlement agreement does not dispose of all of the allegations contained in the Notification;
 - (b) there are Parties to the Notification who have not settled;
 - (c) the settlement agreement does not address systemic or public interest issues arising from the allegations;**
 - (d) the settlement agreement is unconscionable.
27. An Applicant may withdraw all or part of a Notification using a form provided by the Tribunal, at any time prior to entering into a settlement agreement with a Respondent.

Pre-hearings

28. The Tribunal may require the Parties to attend a pre-hearing conference for the purpose of facilitating the just, fair and timely resolution of the Notification.
29. Without limiting the generality of Rule 28, the Tribunal may use a pre-hearing conference to:
 - (a) discuss issues relating to the Notification and Reply and the possibility of simplifying or settling all or part of such issues;
 - (b) discuss the content of the Record, if any, that is to be given to the Tribunal before hearing;

- (c) determine the procedures to be used before and during the hearing, including (but not limited to) the disclosure of documents and witness summaries, the form and manner of giving notices to the Parties and requiring the attendance of witnesses, the need for and type of recording of evidence, any preliminary applications and the date, time and location of the hearing;
- (d) determine whether any of the Parties require accommodation.
30. The Tribunal may hold pre-hearing conferences via telephone, teleconference, video-conference or in such other manner as the Tribunal may direct.
31. If a Party fails to attend a pre-hearing conference after having received Notice of a Pre-hearing Conference, the Tribunal may proceed to hold the Conference and make decisions or orders in relation to the hearing, in the absence of the non-attending Party.
32. A pre-hearing conference or a hearing may be adjourned by the Tribunal on its own motion or upon application of a Party.
33. Unless the Tribunal decides not to deal with a Notification for any reason, the first pre-hearing conference shall take place within **ninety (90) days** of the receipt of a Respondent's Reply.

Preliminary Applications

34. Applications to the Tribunal before a hearing shall be made in the following manner:
 - (a) the Applicant shall prepare a Preliminary Application form and deliver it by telecopier or such other agreed upon means to the Executive Director;
 - (b) the Executive Director shall serve a copy of the Preliminary Application on the Parties and make arrangements for the preliminary application to be heard and notify the Parties accordingly.

Hearings

- 35.1 Hearings shall be oral unless otherwise directed by the Tribunal and may take place at such places, at such times and in such manner, including via telephone, teleconference or videoconference, as the Tribunal may order or direct, on Notice to the Parties.
- 35.2 The Tribunal may post public notice of hearings in such manner as it deems appropriate.**
36. Where a Party fails to attend a hearing for which Notice was given, the Tribunal may proceed with the hearing in the absence of the Party and make decisions and orders based on the evidence adduced at the hearing.
37. Hearings may be attended by the public unless the Tribunal, on its own **initiative**, or upon application by a Party, decides that members of the public are to be excluded for all or part of a hearing.
38. Hearings will not be recorded unless the Tribunal so directs or unless a Party makes acceptable arrangements at its own cost for a recording and transcription of the proceedings and provides the Tribunal and the other Parties to the hearing with a copy thereof.
39. The Tribunal at or before the hearing may decide how the hearing will be conducted and, without limiting the generality of the foregoing, may require the Parties to file and exchange written briefs and legal authorities prior to the hearing, summon any person as a witness, require any person to produce documents, records or things and administer oaths and affirmations.

40. The Tribunal may give such directions and orders to the Parties and to members of the public who are in attendance at hearings as it deems necessary to facilitate the orderly conduct of proceedings.
41. Unless the Tribunal decides not to deal with a Notification for any reason, a Hearing shall take place within **one hundred and twenty (120) days** of the first pre-hearing conference.

Decisions and Orders of the Tribunal

42. A decision or order of the Tribunal is effective the date on which it is made unless otherwise specified by the Tribunal.
43. The Tribunal may issue decisions and orders signed in counterparts by the Members of the Tribunal.
44. A Human Rights Officer or the Executive Director of the Tribunal may, under their signatures, certify that copies of original documents issued by the Tribunal are true copies and such copies may be filed and used in proceedings before the Tribunal as if they were the original documents.
45. Technical or typographical errors in a written decision or order of the Tribunal may be amended by the Tribunal on its own motion or upon application of a Party.

Service of Documents

46. Unless specifically provided otherwise in these Rules **or as agreed to between the Parties**, any notice required to be given or any document required to be served by the Tribunal or a Party may be served personally, by registered mail, by Email or by telecopier.
47. Notwithstanding Rule 46, on the direction of the Tribunal a Human Rights Officer or the Executive Director may, to expedite proceedings, give oral notice of proceedings to a Party via telephone.
48. A Party who is required by the Tribunal to give proof of service must do so under oath.

Inuit Culture and Values

49. Where applicable, these Rules shall be interpreted in a manner that recognizes and makes special provision for Inuit culture and values that underlie the Inuit way of life.

Appendix 4:

Various publications are available upon request. All publications are available in Inuktitut, English, French and Inuinnaqtun.

Nunavut Human Rights Act
Nunavut Human Rights General Information
The Application Process
Rules of Procedure

Contact our Office:

By Phone

Toll Free 1-866-413-6478
1-867-925-8447

By Fax

Toll Free 1-888-220-1011

By Email

Nunavuthumanrights@gov.nu.ca

By Mail


Nunavut Human Rights Tribunal
PO Box 15
Coral Harbour, NU X0C 0C0

Visit our Website

www.nhrt.ca







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☎ 1 888 220 1011

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