

RE: CS-001372 British Columbia Teachers Federation obo Chilliwack Teachers Association v. Barry Neufeld

From Lindsay Waddell [REDACTED]
To BC Human Rights Tribunal AG:EX<BCHumanRightsTribunal@gov.bc.ca>,
[REDACTED] james@jsmklaw.ca,
[REDACTED]
CC [REDACTED]
Date Friday, September 27th, 2024 at 7:06 PM

Dear Panel Members,

I write, on behalf of the Complainant, to request the opportunity to make sur-reply (more specifically to put before the Tribunal one document that came to our attention at approximately 4pm this afternoon and which we believe may be relevant to the Tribunal's consideration of Mr. Neufeld's adjournment application). Although a request to make sur-reply is customarily submitted using one of the Tribunal's application forms, because the Tribunal has indicated that it intends to provide the parties with a decision next week, I will set out the Complainant's application briefly in email form in order to deliver it as quickly as possible in the event that the Tribunal wishes to consider it.

Rules 28(5) of the Tribunal's Rules of Practice and Procedure provides that, if a party wishes the Tribunal to consider a further submission to address a new issue raised in a reply submission, a participant must immediately notify the tribunal and bring an application within one week of receiving the reply submission. Our request to tender material by way of sur-reply arises not from a new issue raised in reply per-se, but from new information relevant to a point made in reply, information of which we were unaware when responding to Mr. Neufeld's application. The Complainant submits that, as between Rule 28(5) and the Tribunal's broad power to govern its own process, it has the ability to consider this additional material should it determine the circumstances warrant it.

In the Complainant's response to Mr. Neufeld's application, it noted (and emphasized) that Mr. Neufeld had not, among other things, provided information or evidence about when he first connected with Mr. Kitchen as potential counsel to represent him (as distinct from when Mr. Kitchen was formally retained). In reply, Mr. Neufeld submitted (at paragraph 8) that he had been completely candid about his search for counsel. However, late this afternoon, we became aware of a post on Mr. Neufeld's website indicating that he initially connected with Mr. Kitchen about this file many years ago when the

We acknowledge that the post appears to be dated September 23, 2024 – before delivery of our response to the application to adjourn and that its apparent posting before the Complainants response may be a factor mitigating against its consideration. However, while it appears to pre-date our responding submission by two days, the Complainant was unaware of the post until late this afternoon.

Sincerely,

Lindsay Waddell (she/her)

Trade Union, Human Rights and Administrative Law

I gratefully acknowledge that I work on the shared lands of the xʷməθkʷəy̓əm (Musqueam), Skwxwú7mesh (Squamish) & səliwətaʔ (Tsleil-Waututh).

This e-mail may contain confidential or privileged information. If you are not the intended recipient, please notify us immediately. Thank you.