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Nunavut Human Rights Tribunal
Nunavunmi Inungnut Pitqutigiyayunut Ihuaqhaiiit
Tribunal des droits de la personne du Nunavut

2016-2017

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UKIUMUT TUHAQHITIT
ANNUAL REPORT
RAPPORT ANNUEL

Letter of Transmittal

November 9, 2017

The Honourable Jeannie Ehloak
Minister of Justice
Legislative Assembly
P.O. Box 1200
Iqaluit, NU X0A 0H0

Dear Minister Ehloak:

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 tenth annual report of the Nunavut Human Rights Tribunal for the fiscal year ending March 31st, 2017.

Respectfully submitted by



Ookalik Curley
Acting Chair

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Message from the Chair

The *Nunavut Human Rights Act (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 tenth annual report for the period commencing April 1, 2016 and concluding on March 31, 2017.

In December 2016, with great sadness, the Tribunal accepted the resignation of Bonnie Almon. Ms. Almon was appointed a member of the Tribunal on November 23, 2010 and was the Tribunal's Chair from March 26, 2012 to December 20, 2016. Ms. Almon contributed significant time and effort and she will be missed. I, Ookalik Curley, am Acting Chair until we have full 5 members on board and a new Chair can be appointed.

The highlight of the Tribunal's report is that in mid-March of this reporting period, the *Nunavut Human Rights Act* was amended by the Government of Nunavut to include explicit protection against discrimination and harassment based on Gender Identity and Gender Expression.

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*).

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 2016-2017.

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 person feels that his or her human rights have been violated. 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.

Ookalik Curley
Acting Chair

The Nunavut Human Rights Tribunal

The Nunavut Human Rights Tribunal is a quasi-judicial administrative Tribunal that decides claims of discrimination and harassment based on the prohibited grounds of discrimination listed in the *Act*.

The Tribunal is a direct access model unlike its counterparts in most 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 appointer (the Government of Nunavut) and impartial (without favor to anyone) in all proceedings before the Tribunal.

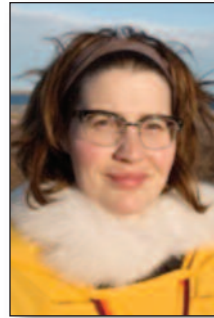
TRIBUNAL MEMBERS (DURING THE REPORTING PERIOD)

The NHRT consists of 1 Chair, 1 Vice Chair and 3 members.



Bonnie Almon
Chair (April - December 2016)

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.



Amanda Hanson Main
Member

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.



Ookalik Curley
Vice/Acting Chair

Ms. 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.



Trisha Makpah
Member

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.



Maureen Doherty
Member

Maureen Doherty has been a Tribunal Member since 2014. She is employed as the Director of Health and Wellness Programs at Nunavut Arctic College in Iqaluit. She holds a Masters of Education and has worked in the field of adult education for over three decades. Maureen previously served as Justice of the Peace in Nunavut and was Executive Director of Qullit Nunavut Status of Women Council. A resident of Nunavut since 1983, she has lived in Kimmirut, Arctic Bay, Nanisivik, Iqaluit, Igloodik and Rankin Inlet. Maureen also served on the Steering Committee for the creation of the *Nunavut Human Rights Act*.

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 Notification 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 2 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 17 grounds listed in the *Act*?

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

HOW DO I FILE A CLAIM ABOUT ALLEGED DISCRIMINATION OR HARASSMENT?

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, in any of the 4 official languages, by the person who says he or she has been discriminated against. This person is called the Applicant. It can be mailed, faxed, or emailed to the office to the attention of the Tribunal Executive Director. Some questions found in a Notification are:

- Who did it?
- What happened?
- What prohibited grounds was it based on?
- 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. The Notification can be filed on behalf of an Applicant with her or his informed consent. Any documentation that will support the claim may be attached to the Notification. Again: whenever possible, we suggest that you seek the services of 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 or harassment is known as the **Respondent or Respondents**. All people and/or organizations listed in both the Notification and Reply are known as the **Parties**.

WHAT IS A "HUMAN RIGHTS OFFICER"?

A Human Rights Officer is most likely the first person that an individual speaks to in the Nunavut Human Rights Tribunal Office. Human Rights Officers can help you understand the practices and procedures set out in the *Act*, how to file Notifications and can refer you 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 generally 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.

A copy of the Notification is sent to the named Respondent(s) in the Notification. The Respondent(s) has the right to reply to a Notification. The Respondent(s) should complete a Reply to Notification form and return it to the Tribunal Office. Each 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 – in a process called a **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 provide a written decision of the **Part 4 Review** to both the Applicant and Respondent(s). The decision will either be to continue with proceedings or to dismiss the Notification.

If the decision is to continue the proceedings, the Tribunal may then try to settle the Notification using Tribunal members and independent mediators. Mediation is voluntary and the Applicant and Respondent(s) 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(s) may give evidence under oath and call witnesses.

A Tribunal member who has had no contact with the Applicant or Respondent(s) 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(s), the Tribunal will decide whether the Applicant has been discriminated against or harassed based on a prohibited ground 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.

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 1, 2016 to March 31st, 2017; 9 Notifications and 85 inquiries were received. This is 3 more Notifications received than in the previous fiscal year. The number of inquiries received also increased by 9 more than the previous year.

	16-17	15-16	14-15	13-14	12-13	11-12	Total
Notifications Received	9	6	6	10	16	7	54
Inquiries Received	85	76	64	69	88	60	442
Settlement Proceedings	0	5	6	1	2	2	16
Decisions Issued	5	9	12	15	5	9	55
Pre-hearings	0	2	4	4	1	3	14
Hearings	0	0	0	0	0	2	2

FY	Total	Open	%
16-17	111	14	13%
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%

The case load has been steady in the reporting period. There was a slight increase in the number of Notifications received, and many decisions were rendered under the Part 4 process.

Table 2 summarizes the activity of the Tribunal during the reporting period.

Filed in:	16-17	15-16	14-15	13-14	12-13	11-12	Total	%
Stage								
Application	9	6	3	5	2	4	29	20%
Request for Reply	9	6	3	2	9	2	31	22%
Part 4 Review	9	6	2	2	9	1	29	20%
Request to Withdraw	1	0	1	1	0	0	3	2%
Mediation	0	0	5	3	1	0	9	6%
Inactive	0	1	2	2	2	0	7	5%
Dismissed	0	0	1	1	-	-	2	1%
Withdrawn	0	0	1	1	-	-	2	1%
Settled	0	3	2	0	1	-	6	4%
Prehearing	0	0	2	2	1	-	5	3%
Prehearing Decision Pending	0	0	3	6	-	-	9	6%
Hearing Order Pending	0	1	-	-	-	-	1	1%
Hearing Order Issued	0	1	-	-	-	-	1	1%
Total Active	14	15	18	14	22	7	90	63%
Total Closed	1	9	11	6	5	0	32	22%
Total Files	28	25	26	30	27	7	143	100%

Table 3 summarizes the status of all Notifications received since April 1, 2011.

The average amount of time taken to issue a Part 4 decision is illustrated in Table 4. Notifications during this fiscal year were all presented to the Tribunal for Part 4 decisions as of March 31, 2017.

Once a Part 4 Decision is rendered the next greatest challenge is to schedule mediation sessions. Often the scheduling spans (3) three 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.

FY	Filing	Decisions
16-17	0.5	0.6
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
All Active	1	0.1
All Closed	2	0.6
All Files	2	0.6

Filed in	16-17	15-16	14-15	13-14	12-13	11-12	Total
Total Files	9	6	6	10	16	7	54
Potential Mediations	0	1	2	4	-	-	7
Mediation Attempts	0	1	3	3	-	-	7
Settlements	0	1	1	0	1	-	3
External Settlements	0	0	-	1	-	-	1
Advance to Hearing	0	0	0	0	-	-	0

Table 5 presents the rate of mediation in our process. During this reporting period, there were no mediations arranged.

WHERE ARE THE ALLEGED ACTS OF DISCRIMINATION OCCURRING?

The Notifications have been filed from across Nunavut. A breakdown by community is not provided to protect the 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 local business offices and from the media.

	16-17		15-16		14-15		13-14		12-13		11-12		Total		Nunavut
	Count	%	Count	%	Count	%	Count	%	Count	%	Count	%	Count	%	%
Baffin	4	80%	4	80%	6	60%	7	70%	10	63%	6	86%	37	80%	60%
Kivalliq	4	80%	0	0%	3	30%	3	30%	1	6%	1	14%	1	2%	15%
Kitikmeot	1	20%	1	20%	1	10%	0	0%	5	31%	0	0%	8	17%	24%
Outside Nunavut	-	0%	-	0%	-	0%	-	0%	-	0%	0	0%	-	0%	0%
Total	5	100%	5	100%	10	100%	10	100%	16	100%	7	100%	46	100%	100%

	16-17		15-16		14-15		13-14		12-13		11-12		Total		Nunavut
	Count	%	Count	%	Count	%	Count	%	Count	%	Count	%	Count	%	%
Total Inquiries	56	-	56	-	69	-	102	-	88	-	60	-	431	-	-
Baffin	36	64%	32	57%	41	59%	46	52%	36	41%	28	47%	219	42%	53%
Kivalliq	21	38%	15	27%	18	26%	38	43%	24	27%	26	43%	142	27%	28%
Kitikmeot	4	7%	5	9%	1	1%	9	10%	8	9%	1	2%	28	5%	18%
Outside Nunavut	5	9%	2	4%	3	4%	6	7%	6	7%	2	3%	24	5%	-
Not Given	19	34%	2	4%	6	9%	3	3%	14	16%	3	5%	47	9%	-
Total	85	152%	56	100%	69	100%	102	100%	88	100%	60	100%	525	100%	-

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

IN WHAT AREAS OF ACTIVITY ARE THE ALLEGED ACTS OF DISCRIMINATION OCCURRING?

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

71% of the Notifications during this fiscal year were while working or seeking work, meanwhile 57% of the Notifications were while seeking services and goods.

61% of inquiries were about discrimination while working or seeking work. Some examples of grounds not covered are employer-employee relations issues, conduct of the RCMP, conditions of federal incarceration institutions, and parental access to children.

The majority of inquiries are received by phone and email.

Activity	16-17		15-16		14-15		13-14		12-13		11-12		04-11		Total	
	Count	%	Count	%	Count	%	Count	%	Count	%	Count	%	Count	%	Count	%
Working or Seeking work	5	71%	6	86%	6	100%	5	50%	10	63%	5	71%	76	75%	113	72%
Membership	-	0%	0	0%	0	0%	-	0%	-	0%	-	0%	10	10%	10	6%
Seeking Services & Goods	4	57%	1	14%	0	0%	3	30%	5	31%	1	14%	15	15%	29	19%
Tenancy	-	0%	0	0%	0	0%	2	20%	1	6%	1	14%	-	0%	4	3%
Publications	-	0%	0	0%	0	0%	-	0%	-	0%	-	0%	-	0%	-	0%
Filing	-	0%	0	0%	0	0%	-	0%	-	0%	-	0%	-	0%	-	0%
Total	9	100%	7	100%	6	100%	10	100%	16	100%	7	100%	101	100%	156	100%

Activity	16-17		15-16		14-15		13-14		12-13		11-12		04-11		Total	
	Count	%	Count	%	Count	%	Count	%	Count	%	Count	%	Count	%	Count	%
Working or Seeking work	46	61%	52	68%	36	56%	41	59%	50	57%	40	67%	393	81%	658	71%
Seeking Membership	-	0%	-	0%	-	0%	-	0%	-	0%	-	0%	2	0%	2	0%
Seeking Goods, Services, etc.	9	12%	10	13%	15	23%	15	22%	26	30%	5	8%	50	10%	130	14%
Tenancy	-	0%	-	0%	-	0%	13	19%	12	14%	3	5%	12	2%	40	4%
Publications	-	0%	-	0%	-	0%	-	0%	-	0%	-	0%	1	0%	1	0%
Filing a Complaint with NHRT	-	0%	-	0%	-	0%	-	0%	-	0%	-	0%	4	1%	4	0%
None of the Above	30	39%	14	18%	13	20%	-	0%	-	0%	12	20%	22	5%	91	10%
Total Inquiries	85	100%	76	100%	64	100%	69	100%	88	100%	60	100%	484	100%	926	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 is 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?"

Contact is primarily made with the Tribunal office by phone. To a lesser extent email is used. No inquiries were made via Canada Post nor by fax.

Currently, the mandate of the Tribunal does not include public education nor should it. Public education and outreach is responsibility of the Nunavut Legal Services Board (*Legal Services Act*, s. 7). Education is the backbone of any human rights code.

The Nunavut Legal Services Board 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 counsel are not taking any new clients on.

OTHER ACTIVITIES

Tribunal staff and members participated in the 2016 Canadian Council of Administrative Tribunals Symposium. Also, they participated in the Canadian Association of Statutory Human Rights Agencies Conference. 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.

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, 2017 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
February 12, 2018



Chartered Professional Accountants

NUNAVUT HUMAN RIGHTS TRIBUNAL NOTES TO THE STATEMENT OF OPERATIONS FOR THE YEAR ENDED MARCH 31, 2017

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

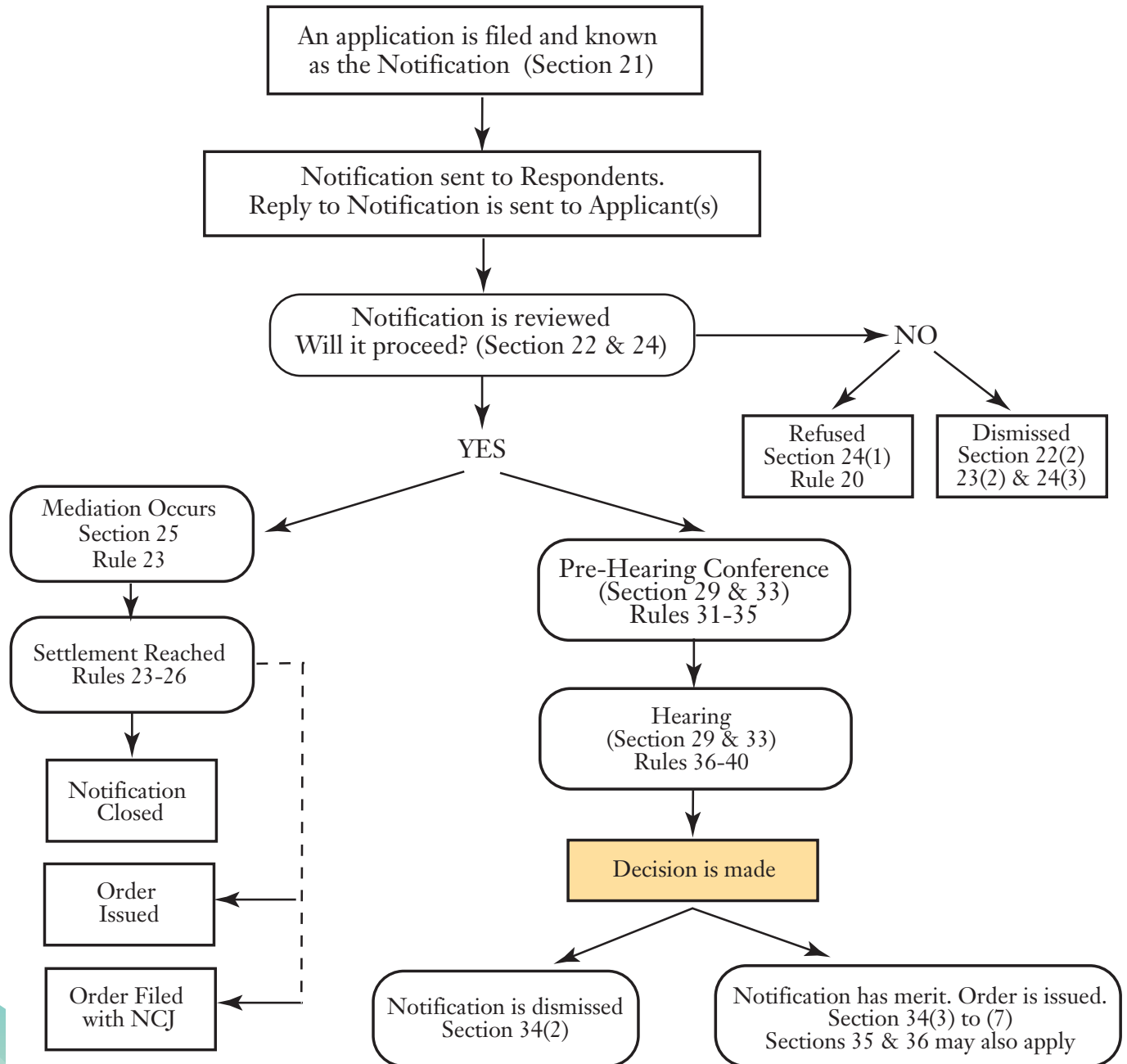
	2017	2016
Opening balance	\$ 2,568,317	\$ 2,577,855
Revenues	(677,369)	(595,312)
Contributions withheld	677,369	595,312
Changes in:		
GST	12,862	(8,483)
Accounts payable and accrued liabilities	(3,941)	(1,055)
Closing balance	<u>\$ 2,577,238</u>	<u>\$ 2,568,317</u>

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

	Budget 2017 (Unaudited)	Actual 2017	Actual 2016
REVENUE			
Government of Nunavut	\$ 812,000	\$ 677,369	\$ 595,312
EXPENSES			
Advertising and publications	15,000	69,885	17,044
Conferences and catering	0	3,241	1,620
Equipment purchases	0	4,158	0
Fees, memberships, and licences	0	25,227	10,837
Freight and courier fees	0	2,840	1,539
Honorarium	19,000	25,327	24,816
Legal counsel fees	45,000	47,038	69,075
Office	20,000	31,158	18,399
Other	20,000	1,883	39
Salaries and benefits	533,000	411,347	388,570
Training	0	1,350	0
Translation services	0	0	105
Travel, accommodations, and incidentals	160,000	53,915	63,268
	<u>812,000</u>	<u>677,369</u>	<u>595,312</u>
EXCESS EXPENSES	<u>\$ 0</u>	<u>\$ 0</u>	<u>\$ 0</u>

Appendix 1: Notification Process

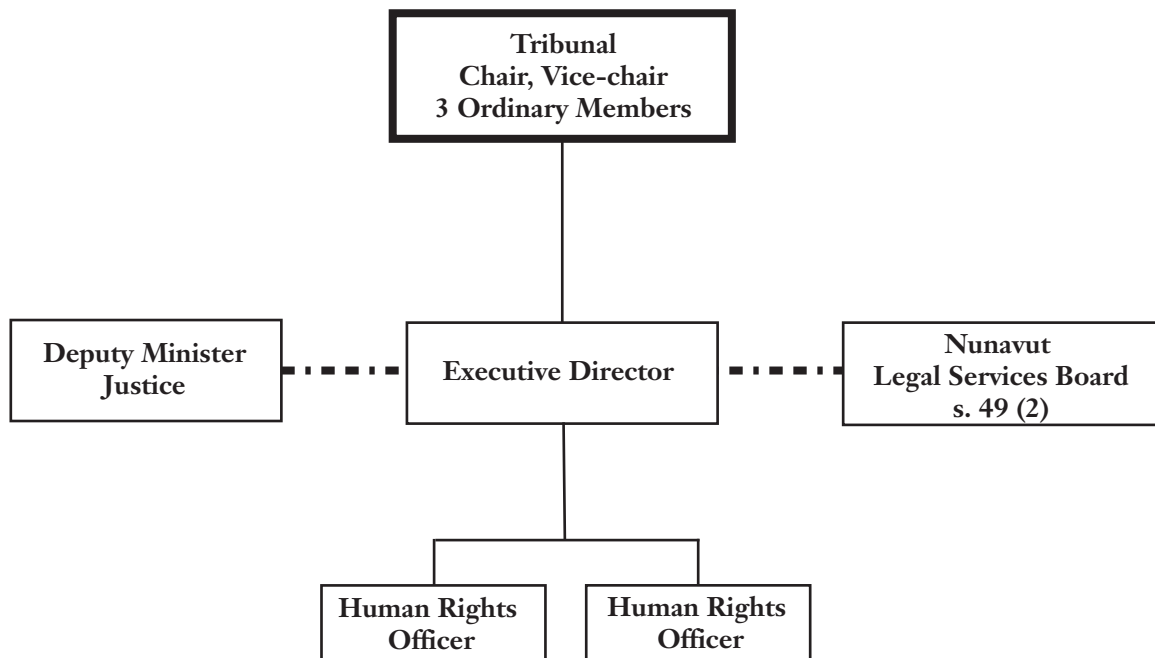
Nunavut Human Rights Act Notification Process



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: **Available Publications**


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



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