

CANADA / JUDGMENT

Carlick v. Taku River Tlingit First Nation

2026 CHRT 27

COURT

Canadian Human Rights Tribunal

DECIDED

19 March 2026

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Carlick v. Taku River Tlingit First Nation Collection Canadian Human Rights Tribunal Date 2026-03-19 Neutral citation 2026 CHRT 27 File number(s) HR-DP-3092-25, HR-DP-3093-25 Decision-maker(s) Pickel, Jo-Anne Decision type

Ruling

Grounds Family Status Decision Content Canadian Human Rights Tribunal Tribunal canadien des droits de la personne Citation: 2026 CHRT 27 Date: March 19, 2026 File No.: HR-DP-3092-25 & HR-DP-3093-25 Between: Susan Carlick Complainant

- and - Canadian Human Rights Commission Commission
- and - Taku River Tlingit First Nation Respondent

Ruling

Member: Jo-Anne Pickel Table of Contents I. Overview 1 II. Decision 1 III. Issues 2 IV. Allegations set out in the complaints 2 V. Analysis 4 A. Applicable law 4 B. Complainant's motion 4 VI. Order 7 I. Overview [1] I must deny the Complainant's motion to add allegations of discrimination on the grounds of sex and race to her discrimination complaint. I explain the reasons why I must make this decision below.

- [2] The Complainant, Susan Carlick, also known as Khoodéi Dukawdaneek, filed two complaints with the Canadian Human Rights Commission (the "Commission") against the Respondent, the Taku River Tlingit First Nation. In her first complaint (the "Discrimination Complaint"), filed in 2023, Ms. Carlick alleged that the Respondent discriminated against her and harassed her based on her family status contrary to the Canadian Human Rights Act, R.S.C., 1985, c. H-6 (the CHRA). Specifically, she alleged that the Respondent discriminated against her when it took certain actions against her because she is a member of the Carlick family rather than the Jack family. Based on Ms. Carlick's statements in this case thus far, it is evident that she was taken by surprise by the termination of her employment by the Respondent and that she has been left to speculate as to the possible reasons for it. In her second complaint (the "Retaliation Complaint"), Ms. Carlick alleged that the Respondent

retaliated against her for filing the Discrimination Complaint. These are serious allegations on which the parties will have a full opportunity to present evidence and make fulsome submissions at the hearing scheduled to start in just under two months, on May 12, 2026.

- [3] After a case management conference call I held with the parties in January 2026, Ms. Carlick filed a motion to expand the scope of the Discrimination Complaint to add allegations that the Respondent discriminated against her based on her sex and race (indigeneity). The Commission supported her motion but the Respondent opposed it. II. Decision [4] I must deny Ms. Carlick's motion for the reasons set out below. III. Issues [5] The sole issue that I must decide is whether it is appropriate to permit Ms. Carlick to expand the scope of the Discrimination Complaint to include allegations of discrimination on the new grounds of sex and race. IV. Allegations set out in the complaints [6] In the Discrimination Complaint, Ms. Carlick alleged that the Respondent discriminated against her and harassed her based on family status. Specifically, she alleged that the Respondent discriminated against or harassed her in the following ways: Terminating her employment, most recently in summer 2022; Harassing her during a Joint Clan Meeting in November 2022 by cutting her off when she was speaking and not permitting her to speak; and Sending her a cease and desist letter which, among other things, blocked her attempts to obtain health and social services for herself and her adult children.
- [7] In the Retaliation Complaint, Ms. Carlick alleged that the Respondent retaliated against her for filing the Discrimination Complaint by: Creating an Adverse Party Policy, sending her a cease and desist letter, and using the policy to restrict her from attending most of its membership gatherings; Referring to her at meetings and the fact that she filed a complaint with the Commission; and Refusing to permit her from being considered to represent her Clan and Nation on the Respondent's Constitution Committee.
- [8] As set out above, in the Discrimination Complaint, Ms. Carlick alleged that the Respondent discriminated against her on the ground of family status only. Among other things, she alleged that the Respondent terminated her employment because she is a member of the Carlick family and not the Jack family. However, in her Statement of Particulars (SOP) and the two motions she filed earlier in this proceeding, Ms. Carlick made new allegations of sex and race discrimination that are not found in her complaints. Specifically, in her SOP, Ms. Carlick alleged that the treatment she endured by the Respondent's leadership was based in part on her identity as a strong Tlingit woman. In her SOP, she alleged that, over the years, the Respondent has not subjected male counterparts to any discipline or adverse treatment when they engaged in hostile or sometimes violent conduct at public meetings. She alleged that the Respondent ignored her complaints of misconduct by senior male leaders and instead they blamed and disciplined her.
- [9] In a production motion she filed, Ms. Carlick sought the following broad production order: all records, correspondence, reports, and minutes concerning complaints or investigations of misconduct, violence, or sexual harassment involving male staff/leadership from 2018 to present, including files referencing [seven male individuals] and any others identified in

disclosure. Include complaints received by CDC [Clan Directors Council], HR [Human Resources], or corporate management regarding workplace conduct, substance use, or violence.

- [10] She alleged that there existed a pattern of selective enforcement and gender bias by the Respondent—that complaints regarding male staff or affiliates were minimized or suppressed while it dealt with Ms. Carlick harshly for raising accountability concerns.
- [11] I denied Ms. Carlick’s request for the documents listed above as they were not arguably relevant to the complaints before me which allege discrimination based on family status and retaliation (see *Carlick v. Taku River Tlingit First Nation*, 2025 CHRT 112 at paras 51–52).
- [12] Ms. Carlick raised these significant allegations of gender and racial discrimination for the first time in her SOP and motions. There is no mention of these allegations in her complaints or the Commission’s Record of Decision which relied upon a Report for Decision that it had produced. V. Analysis A. Applicable law [13] The CHRA sets out a comprehensive framework for dealing with complaints of discrimination, which distinguishes the roles for the Commission and the Tribunal. The Commission is responsible for receiving, screening, and investigating complaints (see sections 40, 44, and 49 of the CHRA). The Tribunal’s jurisdiction to hear complaints is based on the original complaint filed with the Commission and the Commission’s decision when it refers a complaint to the Tribunal (see sections 44(3) and 49(1) of the CHRA).
- [14] The Tribunal’s jurisdiction is limited by the scope of the original complaint filed with the Commission and the Commission’s decision when referring the complaint to the Tribunal (see *Connors v. Canadian Armed Forces*, 2019 CHRT 6 at paras 27–28 [Connors]). The Tribunal can amend, clarify, and determine the scope of a complaint to determine the real questions in controversy between the parties (see *Canada (Attorney General) v. Parent*, 2006 FC 1313 at paras 30 and 40; and *Shirley v. Mikisew Cree First Nation*, 2025 CHRT 78 at para 9). However, there must be a sufficient connection (nexus) between the allegations in the original complaint and any proposed amendments to it. SOPs or amendments cannot introduce an entirely new complaint that has not been put before the Commission and referred to the Tribunal (see *Nolet v. Canadian Armed Forces*, 2025 CHRT 92 at para 58). This would undermine the Commission’s screening role under the CHRA (see *Canadian Association of Elizabeth Fry Societies v. Correctional Services of Canada*, 2022 CHRT 12 at para 14). B. Complainant’s motion [15] I understand the submissions made by Ms. Carlick and the Commission that there is a connection between the new allegations that Ms. Carlick wishes to make and the actions that the Respondent took against her which she has alleged in the Discrimination Complaint. However, in my view, there lacks a sufficient nexus between Ms. Carlick’s Discrimination Complaint and the amendments she wishes to make to it. The amendments that Ms. Carlick wishes to make to the Discrimination Complaint are not clarifications or refinements to the allegations set out in it. Instead, they represent entirely new allegations based upon factual circumstances that extend well beyond those set out in the Discrimination Complaint.

- [16] In her motion, Ms. Carlick states that, at the time she filed the Discrimination Complaint, she was experiencing “significant distress”, and she is not legally represented. She says that “through subsequent reflection, research, and an increased understanding of the Canadian Human Rights Act, [she] came to recognize that the facts already pleaded also plausibly engaged discrimination on additional prohibited grounds, including sex and race.” She argues that she is not seeking to introduce any new incidents, evidence, or factual allegations, but simply seeking to add two new grounds of alleged discrimination. She says that the purpose of adding these additional grounds is to accurately reflect the discrimination she alleged in the Discrimination Complaint.
- [17] The Commission took the position that Ms. Carlick’s new allegations fall within the factual matrix of the Discrimination Complaint because they stem from the incidents of alleged discrimination set out in that complaint.
- [18] The Tribunal has permitted parties to add grounds of discrimination to their complaint when the new grounds support the theory of a complainant’s case set out in their complaint (see *Ariaratnam v. Canadian Security Intelligence Service*, 2026 CHRT 3 at paras 24–27 [*Ariaratnam*]; and *Connors* at paras 10–12). However, what is at issue in this motion is not the simple addition of grounds of discrimination to support the theory of the case set out in Ms. Carlick’s Discrimination Complaint. The theory of the case that Ms. Carlick put forward in the Discrimination Complaint is that the Respondent took the impugned actions against her because she is a member of the Carlick family and not the Jack family. What Ms. Carlick wishes to do in amending her complaint is to advance a different, alternate theory of the case. In other words, she wants to argue that the Respondent also took the impugned actions against her due to her sex and/or race because it has treated her male counterparts differently in the past. What Ms. Carlick is seeking to do is to put forward a new theory of her case rather than add grounds of discrimination that support the theory of the case set out in the Discrimination Complaint, as was the case in *Ariaratnam* and *Connors*.
- [19] I cannot agree with Ms. Carlick that she should be permitted to add the grounds of sex and race to her complaint to ensure that its legal characterization reflects the factual matrix set out in her SOP. In fact, it is the reverse that is required. The content of parties’ SOPs must reflect the factual matrix set out in their complaints. It is the complaints that are the foundational documents and the parties’ SOPs should flow from their complaints. Therefore, I do not agree with Ms. Carlick that the new allegations should be added to her complaint in order to bring it in line with her SOP. For the same reason, I cannot agree with the Commission’s argument that Ms. Carlick should be permitted to add the ground of race to her complaint because she referred to her ancestry in her SOP. SOPs must flow from complaints and not the other way around.
- [20] In this case, the new allegations of sexual and racial discrimination raised by Ms. Carlick in her SOP and motions are distinct from the allegations contained in the Discrimination Complaint. I understand that Ms. Carlick may not fully realize how her new allegations would significantly expand the scope of her complaint. The reason for this is that Ms.

Carlick's Discrimination Complaint is entirely centered on what she says was differential treatment for being a Carlick rather than a Jack. Her new allegations involve a comparison to the Respondent's past treatment of other individuals (that is, male staff, members, or affiliates of the Respondent) over several years. This would require hearing evidence regarding past incidents involving male staff, members, or affiliates of the Respondent and the latter's treatment of such incidents. Moreover, it would also require allowing Ms. Carlick to renew her request for the production of documents from the last several years that is reproduced in paragraph 9 above. All of this represents a significant expansion of this case beyond the allegations that Ms. Carlick set out in her initial complaint.

- [21] While I am conscious that Ms. Carlick is self-represented, she has not alleged that she was unaware that the CHRA includes protections against discrimination based on the grounds of sex and race. Instead, her argument is that she does not know why the Respondent subjected her to the actions it took against her, and she had not considered that these actions may have a connection to her sex and race until she prepared her SOP. Unfortunately, the process set out in the CHRA is that complaints are reviewed by the Commission and referred to the Tribunal only if an inquiry is warranted. The Commission may refer complaints to the Tribunal in whole or in part and the Tribunal only has the power to address complaints, or portions of complaints, referred to it by the Commission. I fully understand that Ms. Carlick did not intentionally delay almost three years in raising her new allegations in order to sidestep the Commission's review function. However, by permitting her to expand the scope of her complaint to add significant and entirely new allegations relating to new grounds of discrimination, I would in effect be permitting her to sidestep the Commission's review function. VI. Order [22] For the above reasons, the motion is denied. The hearing of this case will be focused on the allegations contained in Ms. Carlick's two complaints which were referred to the Tribunal. Signed by Jo-Anne Pickel
Tribunal Member Ottawa, Ontario March 19, 2026 Canadian Human Rights Tribunal Parties of Record File Nos. : HR-DP-3092-25 & HR-DP-3093-25 Style of Cause: Susan Carlick v. Taku River Tlingit First Nation

Ruling

of the Tribunal Dated: March 19, 2026 Motion dealt with in writing without appearance of parties
Written representations by: Susan Carlick, Complainant Julie Hudson, for the Canadian Human Rights Commission Tarek Elneweihi & Scott Marcinkow, for the Respondent

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Prepared on 27 October 2026 · Esheria