

NORTHWEST TERRITORIES HUMAN RIGHTS COMMISSION

Annual Report 2007-2008



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We envision a North at peace with its diversity, where everyone is safe, confident and respected on their journey.

Vision, NWT Human Rights Commission

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OCT 24 2008
Yellowknife

MESSAGE FROM THE CHAIRPERSON



Mary Pat Short, Chairperson

Having completed my fourth year as Chairperson of the Human Rights Commission, I have witnessed the significant development of the processes that make access to human rights increasingly available to people throughout the territories. Additionally, the Commission's involvement in promotion, education and outreach, has continued to increase public awareness of human rights issues and access to protection of these rights.

The people of the NWT have had the opportunity to access information and support in a number of ways. There have been over 300 inquiries from the public, approximately 10 events throughout the territories, along with workshop presentations to school children, college students, union activists, Aboriginal finance officers and other community members. In addition, a series of newspaper advertisements promoted human rights awareness. Our website has continued to evolve with a wealth of valuable information and resources available on the site, www.nwthumanrights.ca. Interestingly, the website is accessed not only by residents of the NWT, but also by people throughout Canada and beyond.

We have developed additional informational items on housing, workplace harassment, human rights and youth and a discussion guide for middle school students. These are available in print and on the Commission's website. Commission members, staff and interested participants have continued to take part in Lancaster House teleconferences to broaden our knowledge and understanding of the intersection of human rights and labour law in the workplace.

In 2007, the Commission enhanced its presence on the national scene when we hosted the annual national conference of the Canadian Association of Statutory Human Rights Agencies (CASHRA) in Yellowknife. The conferences featured notable northern speakers and significant presentations, which are detailed later in this report. Delegates from across the country gave positive feedback about the quality of the conference and their experience of the Northwest Territories.

I was honoured to continue my role as First Vice President of CASHRA. Our association with human rights commissions from across Canada has ongoing value that keeps us informed about developments, ideas and initiatives being undertaken both nationally and regionally. I had a coordinating role between the CASHRA Executive and the organization's educational network for the preparation of a national youth-oriented interactive website to celebrate the 60th anniversary of the Universal Declaration of Human Rights in December 2008. My ongoing

MESSAGE FROM THE CHAIRPERSON

collaboration with colleagues across the country has fostered close professional relationships, which will be an asset for our Commission in the future.

In addition to CASHRA's national initiative, the Commission will sponsor an educational project in the NWT in recognition of the 60th anniversary. Other initiatives involved the development of internal policies and procedures.

The Commission continued to exercise its responsibility for promoting the public interest in human rights cases as a party to a hearing that advanced the legal understanding of "social condition". To discriminate against people on the grounds of social condition is prohibited by the NWT *Human Rights Act*, and the acts of two other Canadian jurisdictions. Details of the legal intervention are provided in the report.

We have accomplished a great deal this year. I recognize and applaud the dedication and creativity of my Commission colleagues: Colin Baile, Joletta Larocque, Rita Mueller and Tammy Rogers, along with the expertise and commitment of the staff, Director and Deputy Director. All NWT citizens can all be proud of our human rights legislation, which is the foundation of our vision: "...a North at peace with its diversity, where everyone is safe, confident and respected on their journey."



Mary Pat Short,
Chairperson

I have witnessed the significant development of the processes that make access to human rights increasingly available to people throughout the Territories.

Mary Pat Short, Chairperson

EDUCATION REPORT

Gathering Wisdom 2007

The NWT Human Rights Commission was pleased to host a national human rights conference in Yellowknife in June 2007. The conference attracted 150 delegates from across Canada and the Northwest Territories. Experts in a variety of human rights issues provided informative presentations on timely issues such as Aboriginal rights, women's equality, the duty to accommodate family obligations, drug and alcohol testing in the workplace, and the human right to a clean environment.

Nobel Peace Prize nominee Sheila Watt-Cloutier and NWT Supreme Court Justice John Z. Vertes delivered keynote addresses that educated delegates on the unique human rights issues and challenges faced by northern residents and communities.

The Commission was pleased to work with the Law Society of the Northwest Territories and Indian and Northern Affairs Canada (INAC) to encourage representatives from communities outside of Yellowknife to attend the conference. The Law Society and INAC each provided funding of \$10,000 to assist with travel costs and conference fees for delegates from communities. The funding allowed an additional 16 delegates to attend the conference.

Conference materials and information are available at:
<http://www.nwthumanrights.ca/cashra2007>



L-R: Commission Members Tammy Rogers and Joletta Laroque, keynote speaker Sheila Watt-Cloutier, Commission Chairperson Mary Pat Short, and Commission Member Colin Baile.

EDUCATION REPORT

Community Visits and Presentations

The Commission continued with its goal of visiting communities each year for public meetings which provide information about the Commission and the *Human Rights Act* and create links with community members.

- Inuvik, Tuktoyaktuk and Fort MacPherson: The Commission provided presentations and hosted community events in these three communities in April 2007. In September 2007, a workshop on human rights and housing was presented in Inuvik to representatives of Housing Authorities from across the NWT.
- Kakisa: A presentation on the *Human Rights Act* and the Commission was delivered to the K'a'geeTu First Nation in Kakisa.
- Katlodeeche First Nation: The adult education class on the Hay River Reserve learned about rights and responsibilities under the *Act*.
- Enterprise: A presentation was given to staff of the Enterprise Hamlet Council followed by a community luncheon.

There were several presentations and workshops delivered in Yellowknife throughout the year. Highlights include:

- Presentation to Mildred Hall students and staff at the “Rainbow Conference” organized by the Mildred Hall Peacemakers.
- Presentation to Aboriginal Finance Officers from across the NWT at the Aboriginal Finance Officers’ annual general meeting.
- Presentation to participants at the Public Service Alliance of Canada’s annual “Union School.”

Ad Campaign

The Commission launched an advertisement campaign that featured human rights quotes from NWT, national, and international leaders in social justice and human rights. The focus of the advertisements was to promote the Commission’s vision of “a North at peace with its diversity where everyone is safe, confident and respected on their journey.” The advertisements appeared in NewsNorth and l’Aiglon between April 2007 and March 2008.

EDUCATION REPORT

Audio Conferences

Several communities participated in the Commission sponsored Lancaster House Audio Conferences. Lancaster Audio Conferences are offered by Canadian lawyers with expertise in human rights and labour. Following the Lancaster Conference, participants have the option of a follow up teleconference with the Director of Human Rights to ask further questions on the topic. Business owners, union representatives, and human resources professionals in the communities of Inuvik, Hay River, Yellowknife, and Fort Smith participated in audio conferences on the following topics:

- Accommodating family responsibilities
- Accommodating invisible disabilities
- Discipline for drug & alcohol related conduct
- Racial discrimination in the workplace

Publications

The Commission added four new publications to its resources:

- Workplace Harassment: This brochure describes what workplace harassment is and when it is covered by the *Human Rights Act*.
- Human Rights and YOUth: This brochure is geared to young people and describes how the *Human Rights Act* applies to them.
- Human Rights and Housing: The housing guidelines are written for landlords and tenants to inform them of how the *Human Rights Act* applies to rental housing in the NWT.
- Discussion Guide on human rights for middle school students: The Discussion Guide uses the Commission's video public service announcements as a basis for teachers to educate and encourage discussion on human rights in their classrooms.

Visit the Commission's website at www.nwthumanrights.ca to download our publications.

When I was a child and would hear scary things on the news, my mother would say to me, "Look for the helpers. You will always find people who are helping."

Fred Rogers, Children's Television Host

PUBLIC INTEREST REPORT

Legal Interventions

In the last Annual Report, the Commission reported that it had become a party to the hearing into *Mercer v. Workers' Compensation Board of the NWT and Nunavut*. The hearing was held in January 2007 and the decision was rendered on August 13, 2007.

The decision supported the Commission's arguments. Specifically, Mr. Mercer's situation of being a seasonal worker from a region of Canada that suffers high unemployment are circumstances that fall under the ground of "social condition" in the *Act*. The decision also confirmed that the WCB's policy of excluding Employment Insurance as income for the purposes of calculating benefits had the effect of discriminating against seasonal workers on the basis of social condition. The decision set a national legal precedent in an area of human rights law that is new and evolving. The decision has been appealed to the NWT Supreme Court.

SCAN

In April 2007, the Commission made written and oral submissions to the Standing Committee on Social Programs regarding the proposed Bill 7, the *Safer Communities and Neighbourhoods Act* (SCAN). The Commission recommended that the Legislative Assembly not proceed with SCAN until it undertook an in-depth constitutional review of the proposed bill.

The Commission raised concerns that Bill 7 would, as written, violate rights that are guaranteed under the *Canadian Charter of Rights and Freedoms*, and would lead to a greater lack of safety and security in communities and neighbourhoods in the NWT. Specifically, SCAN could:

- set up a process that does not adhere to the Canadian legal traditions of due process, natural justice, and right to privacy;
- encourage neighbours to report on neighbours, and in some situations require neighbours and government agencies to provide statements and information as part of an investigation or be charged with an offence and even put in jail for up to a year;
- be used to evict alleged "problem neighbours" without notice, without a hearing, and without them having the opportunity to defend themselves against the accusations of alleged problem behaviour;
- be misused as a means of harassment;
- involve Territorial residents in an additional level of criminal law not faced by other Canadians; and,
- grant broad powers to the Director of Safer Communities without sufficient corresponding accountabilities.

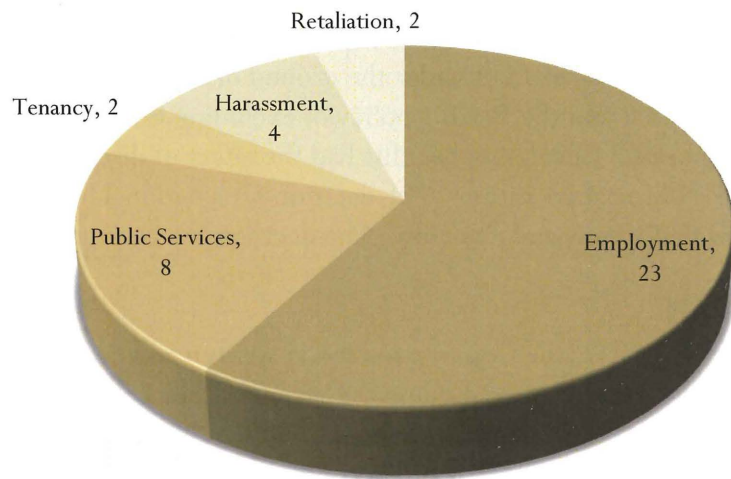
The Commission argued that all of these factors could result in greater insecurity for Territorial residents. The Commission was pleased that SCAN did not pass in its current form. It is the Commission's hope that if SCAN is revisited in the future, substantial amendments be made to address the issues of due process, natural justice, and right to privacy.

COMPLAINTS REPORT

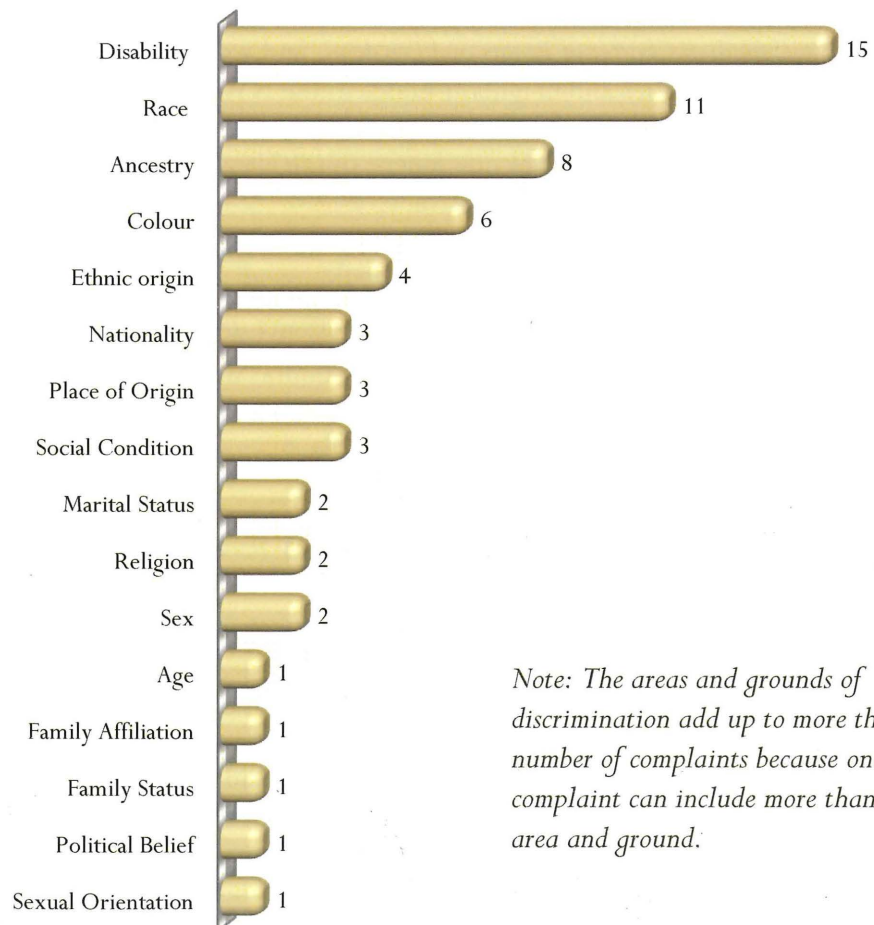
From April 1, 2007 to March 31, 2008, the Commission received:

- 317 inquiries from the public
- 33 new complaints

The new complaints alleged discrimination in the following areas:



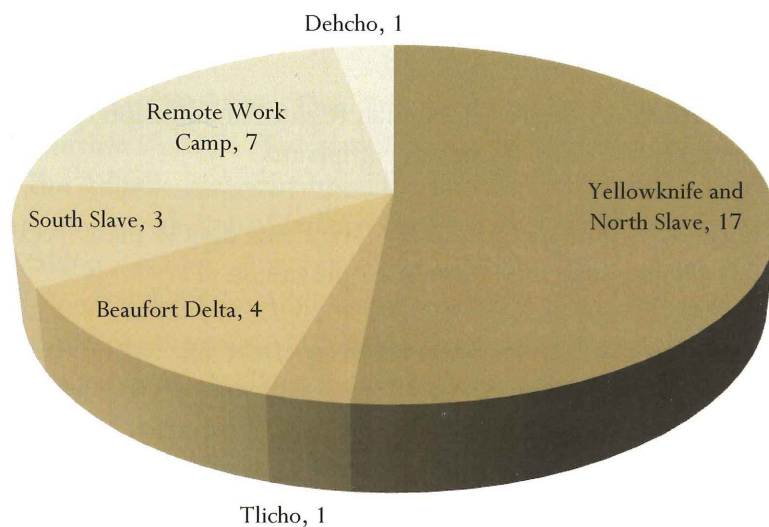
The new complaints alleged discrimination based on the following grounds:



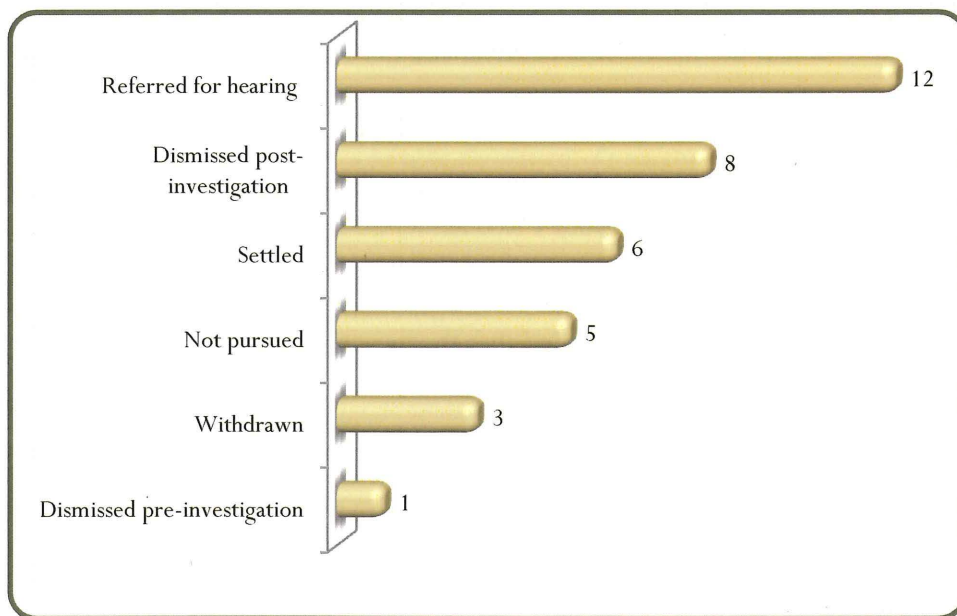
Note: The areas and grounds of discrimination add up to more than the number of complaints because one complaint can include more than one area and ground.

COMPLAINTS REPORT

The 33 new complaints alleged discrimination in the following regions:



Thirty-two (32) files were closed in 2007-2008. The reasons for closure are listed on this chart.



DECISIONS

NWT Human Rights Adjudication Panel

The NWT Human Rights Adjudication Panel hears complaints that are referred to it by the Director. The Panel also hears appeals of the Director's decision to dismiss complaints. Decisions of the Panel are posted on the Commission's website.

Appeals

There were three decisions by the NWT Human Rights Adjudication Panel (the "Panel") on appeals of the Director's decisions to dismiss complaints.

Merko v. Tundra Transfer Ltd, July 5, 2007: The Panel upheld the Director's decision to dismiss a complaint alleging discrimination in employment.

Belyea v. Government of the Northwest Territories, June 29, 2007: This complaint deals with the Government of the Northwest Territories' Affirmative Action Policy. The GNWT Affirmative Action Policy was approved under the *Fair Practices Act*. Section 67 of the NWT *Human Rights Act* states that all programs that were approved under the *Fair Practices Act* are considered to be special programs for the purposes of the *NWT Human Rights Act*. The Director dismissed a complaint alleging discrimination as a result of the Affirmative Action Priority Two category of hiring. The Adjudication Panel upheld the dismissal and found that complaints against the Affirmative Action policy are non-jurisdictional, in other words, fall outside the scope of the *Human Rights Act*.

Palchuk v. DeBeers Canada and DeBeers Corporate Group, June 29, 2007: The Adjudication Panel upheld the Director's decision to dismiss a complaint alleging discrimination in employment.

Referred Hearings

Mercer v. Worker's Compensation of the Northwest Territories and Nunavut, August 13, 2007: This decision is summarized in the Public Interest Report, at page 8 of this Report.

Huskey v. Diavik Diamond Mines Inc., February 15, 2008: This is a preliminary decision on the location of a hearing. The adjudicator decided that the hearing would be held in the complainant's home community of Behchoko.

DECISIONS

NWT Supreme Court

Two important decisions from the NWT Supreme Court dealt with the Director's decision-making function under Section 44 of the *Act*. Section 44 of the *Act* allows the Director to dismiss complaints under certain circumstances. The following two decisions clarified this section of the *Act*.

Aurora College v. Niziol, May 25, 2007: The Director dismissed a complaint alleging discrimination against Aurora College. The complainant appealed the dismissal to the Adjudication Panel. The Adjudicator overturned the Director's decision and ordered further investigation. The Adjudicator also provided direction on the appropriate threshold for the Director's decision-making function. Aurora College appealed the decision to the NWT Supreme Court. The Court upheld the Adjudicator's decision and clarified the threshold for the Director's decision-making function. In considering whether to refer a complaint to a hearing, or to dismiss a complaint, the Director is expected to consider:

[58] ... all of the circumstances of a case must be considered; that there need only be a reasonable basis in the evidence to proceed to a hearing; that the enquiry must be as to whether there is any (reasonable) evidence; that regardless of the respondent's evidence, if the evidentiary burden is discharged a hearing is warranted.

[59] ... there must be a reasonable basis in the evidence to proceed to a hearing. Since an adjudication panel at a hearing could accept a complainant's version of events rather than a respondent's, where there is contradictory evidence, the person screening the complaint should consider whether, if the complainant's version is accepted, the complaint could be found to have merit. If so, a hearing will likely be warranted even though the respondent may be able to point to contrary evidence.

Diavik Diamond Mines Inc. vs Thérèse Boullard, Director of Human Rights and Peter Huskey, October 16, 2007: The Director referred a complaint filed against Diavik Diamond Mines to the Adjudication Panel for a hearing. Diavik Diamond Mines sought judicial review of that decision. The NWT Supreme Court upheld the Director's decision and further clarified the Director's decision-making function.

[43] ... Is there evidence which, if believed, could substantiate the complaint? ... It is simply a matter of determining whether there is sufficient evidence to warrant a hearing.

WHAT TO EXPECT 2008-2009

60th Anniversary of Universal Declaration of Human Rights

December 10, 2008, marks the 60th anniversary of the United Nations' Universal Declaration of Human Rights (Declaration). Canada played an important role in drafting the Declaration and has since been a leader in the promotion and advancement of human rights at the international level.

The 60th anniversary is an opportunity to celebrate our achievements, to recognize the work that needs to be done, and to educate northerners on the Declaration and on the importance of human rights in our everyday lives.

Schools across the Northwest Territories will be invited to participate in "Respect Everyone Everywhere", an education campaign aimed at students from grades 7 to 12. The campaign promotes human rights values such as peace, diversity, inclusiveness, and respect by asking students to identify human rights leaders in their school. Participating schools will submit the name of their human rights leader to the Commission. These students and their nominators will have a chance to win one of 14 MacBook computers.

The campaign will be launched in September 2008 and the winners will be announced on December 10, 2008. Visit the Commission's website for updates, or contact the Commission to participate.

Human Rights at Work

The Commission will develop workshops specific to workplace human rights issues. Developed as a "train the trainer" model, the workshops will focus on workplace issues such as: building an inclusive workplace; discrimination and harassment; the duty to accommodate; human rights in the employment process; and, workplace human rights legislation.

Guidelines for Public Services

The *Human Rights Act* applies to the services provided by all territorially-regulated businesses, as well as non-profit, and government organizations. These guidelines will provide accessible information to public service providers about rights and responsibilities in the *Act*.

WHAT TO EXPECT 2008-2009

Community Visits & Information Sessions

The Commission will continue visiting communities for meetings and offering public information sessions throughout the 2008-2009 fiscal year. Community visits can also include workshops in schools, participating in public events such as trade shows and career fairs, or presentations to groups interested in learning about topics such as the duty to accommodate in employment, human rights and housing, or workplace discrimination.

The Commission also offers human rights legal updates through Lancaster House Audio Conferences. These audio conferences provide human rights and labour updates on a variety of timely workplace issues. Topics scheduled for 2008-2009, include:

- Accommodating mental illness and workplace stress
- Medical information in the accommodation process
- Update on violence, bullying and harassment in the workplace

Individuals interested in hosting an information session or workshop, or in participating in an audio conference can contact the Commission.

The 60th anniversary of the Universal Declaration of Human Rights is an opportunity to celebrate our achievements, to recognize the work that needs to be done, and to educate northerners on the Declaration and on the importance of human rights in our everyday lives.

ABOUT THE COMMISSION

The NWT Human Rights Commission is an independent agency with the mandate to promote human rights and prevent discrimination through education and deal with complaints from people who feel their rights under the NWT *Human Rights Act* have been violated.

Human Rights Commission

The Commission consists of five members. They are appointed by and report to the Legislative Assembly.

The Commission prevents discrimination through education, promotion, research, and advocacy.

Commission Members

- Mary Pat Short, Chairperson – Fort Smith
- Colin Baile, Vice-Chairperson – Yellowknife
- Joletta Larocque – Hay River
- Rita Mueller – Behchoko
- Tammy Rogers – Inuvik

Human Rights Officers

- Isabel Gauthier
- Carolyn MacKay

Office Administrator

- Denise Jerome

Director and Deputy Director of Human Rights

The Director and Deputy Director are full-time appointments of the Legislative Assembly. They administer the complaints process.

- Thérèse Boullard, Director of Human Rights
- Deborah McLeod, Deputy Director of Human Rights

ABOUT THE NWT *HUMAN RIGHTS ACT*

It is against the *Human Rights Act* to discriminate against or harass people because of:

- Race, colour, ancestry, place of origin, ethnic origin, and nationality
- Sex, sexual orientation, or gender identity
- Family or marital status, or family affiliation
- Social condition
- Religion or creed
- Political belief or association
- A pardoned criminal conviction
- Disability
- Age

The *Human Rights Act* prohibits discrimination against people in 5 areas:

- Work and looking for work
- Renting a home or a business space
- Membership in a trade union or professional group
- Public services such as health, education, or social services
- Published materials such as newspapers, pamphlets, magazines, or signs

To discriminate means to assume negative things about a person or group of people and treat them unfairly, harass them, or deny them opportunities to which they are entitled.

A person can file a complaint with the Commission when she or he believes a person or agency broke the law and discriminated against them. There is no cost involved in filing a complaint. A person must file a complaint within 2 years of the alleged discrimination.

Here are three examples of discrimination.

- A landlord won't rent to a family on income support because he believes the family will cause trouble and won't pay the rent.
- A business fires a woman because she gets pregnant.
- An employer refuses to accommodate an employee's disability.

FINANCIAL SUMMARY

For the period ended March 31, 2008

Statement of General Operations

Revenue

Government of the Northwest Territories	
Operating grant	371,000.00
Reimbursement of expenses	41,160.00
Interest Revenue	625.00
	412,785.00

Expenses

Accounting	18,352.00
Advertising	15,278.00
Benefits and pension	29,239.00
Contracts – investigation	11,743.00
Contracts – mediators	28,416.00
Legal expenses	41,975.00
Office administration	47,745.00
Printing	24,533.00
Staff training	1,192.00
Subscriptions	3,871.00
Telephone & Toll-free	25,033.00
Translation & interpretation	3,608.00
Travel – Commission Members	32,658.00
Travel – Director and Deputy Director	5,482.00
Travel – Human Rights Officers	3,351.00
Wages	172,148.00
Website	73.00
	464,697.00

Excess expenses (\$51,912.00)

Statement of cash flows

Cash provided by (used in)

Operating activities

Excess revenue (expenses) (\$51,912.00)

Change in non-cash operating working capital

Accounts receivables	14,288.00
Prepaid expenses	2,677.00
Accounts payable and accrued liabilities	36,843.00

Change in unrestricted cash 4,380.00

Purchase of capital asset (2,484.00)

Cash, opening 55,598.00

Cash closing 57,494.00

To receive a copy of the complete audited financial statements, please contact the Commission.

NORTHWEST TERRITORIES HUMAN RIGHTS COMMISSION

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