COURT OF KING'S BENCH
FOR SASKATCHEWAN

CIVIL PRACTICE DIRECTIVE #5

APPLICATIONS UNDER *THE SASKATCHEWAN HUMAN RIGHTS CODE*

REFERENCE: CIV-PD #5

Effective: September 1, 2017

Revised: October 1, 2019; November 1, 2023

1. This practice directive sets out the procedures to be applied when the Court receives an application from the Chief Commissioner [Commissioner] of the Saskatchewan Human Rights Commission [Commission] for a hearing of a human rights complaint pursuant to section 34 of *The Saskatchewan Human Rights Code*, 2018, SS 2018, c S-24.2 [*Code*].

2. To apply to the Court for a hearing pursuant to section 34 of the *Code*, the Commissioner shall:

    a) Complete an application in the attached Form A. The form shall:
        i) indicate whether any of the issues contained in the formal complaint have since been resolved;
        ii) identify what the Commissioner understands the respondent(s)' defence(s) to be; and
        iii) include contact information for the complainant and respondent(s) that includes a mailing address and telephone number(s).
    b) Personally serve the respondent(s) with a copy of the completed application. The respondent(s) include all parties to the action other than the Commission and the complainant.
    c) File with the Court, at the judicial centre nearest to the place where the subject matter of the complaint arose, the following:
        i) the completed application in the attached Form A;
        ii) proof of personal service of the application upon each respondent(s) in accordance with *The King's Bench Rules*;
        iii) a copy of relevant documents from the Commission's file in a sealed envelope (Commission's sealed documents);
        iv) draft Notice to Appear for a Pre-Hearing Conference in the attached Form B; and
        v) the local registrar's fees.

Pre-Hearing Conference

3. Except where this practice directive provides otherwise, *The King's Bench Rules* respecting the conduct and confidentiality of pre-trial conferences apply to the pre-hearing conference referred to in section 35(2) of the *Code* and in this practice directive.

Chief Justice to Determine if Pre-Hearing Conference to be held

4. Upon receipt of the application and related documents from the Commissioner, the local registrar shall transmit a copy of the application to the Chief Justice or his/her designate to determine whether a pre-hearing conference should be scheduled, and if so, to designate a Judge to conduct the pre-hearing conference.

Scheduling Pre-Hearing Conference

5. Should the Chief Justice designate a Judge to conduct a pre-hearing conference, the local registrar will immediately contact the designated Judge to obtain dates when the Judge would be available for the pre-hearing conference. The local registrar will then promptly contact the parties by telephone or otherwise as the local registrar may determine, to ascertain their availability for the dates the Judge has available.

6. Once a date has been selected, the local registrar will complete the Notice to Appear for a Pre-Hearing Conference in the attached Form B and mail a copy of the Notice to Appear by ordinary mail to the Commission, the complainant and respondent(s) (or their counsel) at least 30 days before the date selected for the conference, unless each party consents to a shorter notice period.

7. If for any reason a party requests an adjournment from the conference date prior to the day of the conference, the assigned conference Judge shall be consulted, and a telephone conference call shall be convened with the parties for a ruling on the request, and if appropriate, the setting of a new conference date.

8. If the Judge designated to conduct the pre-hearing conference is not available to conduct the conference on the dates the parties are available within 90 days from the date of the request for a hearing, the designated Judge shall consult the Chief Justice as to whether another Judge should be designated.

Disclosure and Confidentiality of Commissioner's file

9. Upon receipt of the Notice to Appear for a Pre-Hearing Conference, the Commissioner shall disclose to the complainant and respondent(s) the contents of the Commission's sealed documents filed with the Court.

10. The Commission's sealed documents are filed with the Court for the sole purpose of determining whether to conduct a pre-hearing conference and for use at the pre-hearing conference.

11. Should the Chief Justice determine that a pre-hearing conference is to be held, the Chief Justice will direct that the Commission's sealed documents be re-sealed and remain on the file for use by the pre-hearing Judge. If no pre-hearing conference is to be held the Commission's sealed documents will be re-sealed and returned to the Commission.

12. At the conclusion of the pre-hearing conference, the local registrar shall re-seal the Commission's sealed documents and return them to the Commissioner.

Pre-Hearing Conference

13. The Chief Justice or the Judge designated to conduct the pre-hearing conference, may direct the Commissioner or any of the parties to file additional information or briefs of law, for use at the pre-hearing conference.

14. The goals of a pre-hearing conference are equivalent to a pre-trial conference under Rule 4-12(3), as follows:

    a) to allow the parties to participate in the problem-solving process;
    b) to allow the parties to receive the view of a Judge as to the issues, both facts and law, in dispute, as far as the material before the pre-hearing Judge allows;
    c) to allow settlement options to be presented that would not necessarily be available at hearing;
    d) to seek settlement of the dispute so as to improve the efficiency of the court system and to save time and costs for all parties and witnesses.

15. The Judge designated to conduct the pre-hearing conference shall attempt to settle the complaint. If settlement of the complaint is not possible, the Judge shall address the issues set out under Rule 4-12(4) in readying the complaint for hearing, as follows:

    a) the identification and simplification of the issues;
    b) the possibility of obtaining admissions that will facilitate the hearing;
    c) whether all steps have been taken in preparation for the hearing;
    d) the possibility of settlement of specific issues;
    e) the remedy, including quantum of damages;
    f) any other matters that may aid in the disposition of the complaint;
    g) the time required for hearing; and
    h) the date of the hearing.

16. The Judge conducting the pre-hearing conference should use the civil pre-trial form to report on the management matters covered in the conference, and any agreements reached. In the event the matter settles at the pre-hearing conference, the fact of the settlement can be noted on the flyleaf of the file as is done in a civil case.

Hearing

17. The matter will be set for hearing at the conclusion of the pre-hearing conference. If the Chief Justice declines to order a pre-hearing conference, the local registrar will consult the parties on available dates and set the hearing on the direction of the Chief Justice. The local registrar may notify the parties of the hearing date by ordinary mail.

Chief Justice M.D.Popescul
Court of King's Bench for Saskatchewan