

**YUKON HUMAN RIGHTS PANEL OF ADJUDICATORS**

Between

**Jarrett Parker**

“Complainant”

And:

**The Yukon Human Rights Commission**

“Commission”

And

**Government of Yukon, Department of Health and Social Services,  
Social Services Division**

“Respondent”

**DECISION  
(Application for production)**

Appearances

Counsel for the Complainant:

Self-represented

Counsel for the Commission:

Alex Dezan

Counsel for the Respondent:

I.H. Fraser

V. Larochelle (Chief Adjudicator):

1. This is an application by the Respondent Government of Yukon requesting that the Complainant and the Commission provide further particulars. The particulars sought by the Respondent are: (i) the date of diagnosis of the Complainant’s disabilities; (ii) the

disabilities for which the Complainant was taking medication and attending counselling; and (iii) what difficulties the Complainant had in managing his emotions.

2. At a case management conference held on January 20, 2021, I dismissed the Respondent's application with reasons to follow. These are my reasons.

### Context

3. This Complaint was referred to the Yukon Human Rights Panel of Adjudicators (the "Panel") on June 29, 2020. The referral alleges that the respondent "failed to reasonably accommodate [the Complainant's] mental disability during his employment and ... that his mental disability was a factor in the Respondent's decision to release him on probation."

4. On September 4, 2020, the Respondent wrote to the Commission requesting that a number of issues be particularized.

5. On October 21, 2020, the Commission provided particulars to the Respondent by way of letter.

6. On October 22, 2020, the Respondent requested further particulars from either the Commission or the Complainant. The particulars requested on this date by the Respondent are those which led to the filing of this application.

7. On November 23, 2020, the Complainant provided further particulars to the Respondent by way of a detailed three-page letter. This correspondence also included, as enclosure, an extensive eight-page report, dated November 18, 2020, authored by the

counsellor to whom the Complainant was referred in August of 2016.

### Legal Principles

8. The rules of the Panel do not address the situations in which the provision of particulars by a party will be required. However, the rules of natural justice do so.

9. In the context of a human rights complaint, a party to the proceedings must disclose sufficient particulars to allow the other parties to prepare themselves for the hearing: *P.S.A.C. v. Northwest Territories (Minister of Personnel)* 1999 CarswellNat 3178, [1999] C.H.R.D. No. 8, para. 15.

10. In the Yukon, as elsewhere, this involves a party providing to all other parties the material facts on which it intends to rely at the hearing of the complaint. A party is not required, however, to provide a summary of the evidence it intends to call, nor arguments and reasoning it will use at the hearing.

11. To the extent that there is disagreement about whether a fact is material or not, it is useful to return to first principles and to turn to the objective behind the provision of particulars. I accept the Ontario Court of Appeal's view of the matter, albeit in the civil litigation context, and expressed in *Fairburn v. Sage* (1925), 56 O.L.R. 462 (Ont. C.A.).

The purpose of providing particulars is fourfold:

- a. To define the issues;
- b. To prevent surprises;
- c. To enable the parties to prepare for the hearing; and

d. To facilitate the hearing.

Application to the case at bar

12. The Respondent first seeks particulars with respect to the date on which the Complainant's disabilities were diagnosed.

13. The Complainant, in his letter dated November 22, 2020, alleges five disabilities: diabetes, operational stress disorder, vicarious trauma, post-traumatic stress disorder, and attention deficit hyperactivity disorder (ADHD).

14. The Complainant further alleges that all of these disabilities were diagnosed prior to the start of his employment with the Respondent. With respect to ADHD, the Complainant alleges that this was not diagnosed until the fall of 2017. In my opinion, this information is, in and of itself, sufficient to satisfy the Respondent's first request for particulars in this application.

15. I note, however, that the Complainant went beyond what was necessary in the context of pleadings by providing the Respondent with a detailed report by the counsellor to whom he was referred in August of 2016, and by pleading the underlying causes of his trauma-based health concerns.

16. Secondly, the Respondent seeks particularization of the disabilities for which the Complainant was taking medications or counselling.

17. The short answer to this question can be found in the Complainant's letter of November 22, 2020: "*At the time I was employed with YG, I was taking medication for*

*diabetes, ADHD, and past trauma, as well as attending counselling sessions for trauma and ADHD.”*

18. In the course of the hearing, the Respondent conceded that this was a sufficient answer to its second request for particulars. I agree.

19. This leaves the Respondent’s third request for particulars, namely, what difficulties the Complainant had in managing his emotions. To properly understand this request for particulars, it is necessary to briefly trace back the correspondence exchanged between the parties.

20. The Respondent first sought particularization of the symptoms experienced by the Complainant and how those affected his ability to perform his duties at work. Both the Commission and the Respondent answered this request in their letters of October 21, 2020, and November 22, 2020, respectively.

21. The Respondent’s letter is the most fulsome, alleging several symptoms such as difficulty understanding social cues, difficulty managing conflict, and difficulty managing emotions. The Respondent then explained how these symptoms affected his ability to perform his duties. In addition, the enclosed report from the Complainant’s counsellor identifies the Complainant’s need to “... *develop emotional management skills that would lead to a decrease in the conditioned tendency to initiate the sympathetic (stress) response as a first order or usual response.*”

22. At the hearing of this application, the Respondent submitted that “difficulty managing emotions” is too broad a statement and that it would be unable to adequately

prepare itself for the hearing of the application without knowing which specific emotion or emotions are in play.

23. While human emotions are a complex manifold, their range and nature are not so broad as to prevent the Respondent from adequately preparing for the hearing of this particular matter.

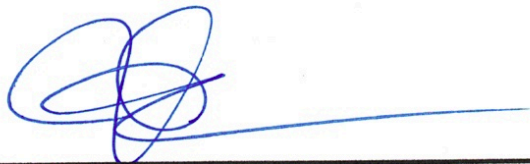
24. The difficulty managing emotion alleged by the Complainant is but one of many symptoms relating to one of several alleged disabilities. If the Respondent's position were accepted, there would be no end to the process of providing particulars.

25. In short, on the record before me, the Respondent has not satisfied me that further particularization of the Complainant's difficulty to manage his emotions is required to prepare itself for the hearing.

Conclusion

26. The Respondent's application is dismissed.

Whitehorse, Yukon, April 8<sup>th</sup>, 2021



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**Vincent Larochelle, Chief Adjudicator**  
**Yukon Human Rights Panel of Adjudicators**