

**Canadian Human
Rights Tribunal**



**Tribunal canadien
des droits de la personne**

Citation: 2026 CHRT 67

Date: June 23, 2026

File Nos.: T2259/1418 and T2260/1518

Between:

Paula MacDonald

Complainant

- and -

Canadian Human Rights Commission

Commission

- and -

Canadian Armed Forces

Respondent

Ruling

Member: Jennifer Khurana

I. OVERVIEW

[1] Paula MacDonald, the Complainant, was a member of the Canadian Armed Forces (CAF, the “Respondent”) from October 2014 until January 2016. She filed two complaints with the Canadian Human Rights Commission (the “Commission”) in 2015 and 2016, alleging discrimination and harassment in employment on the grounds of sex and disability under sections 7, 10 and 14 of the *Canadian Human Rights Act*, RSC 1985, c H-6 (the “Act”).

[2] In general terms, Ms. MacDonald alleges that CAF recruiters and personnel gave her inaccurate and misleading information which negatively impacted her career and her goal of becoming a social worker officer, at least in part because she is a woman. She also alleges that she was subject to sexual harassment and that CAF forced her to undergo a medical assessment as retaliation for reporting the harassment, which they failed to appropriately address.

[3] I am dismissing Ms. MacDonald’s motion to add allegations under s.14.1 of the Act in the absence of a tenable claim that these allegations are related to the filing of a human rights complaint under the Act. The other allegations of sexual assault and rape, as well as those made against policing or oversight bodies were not part of her complaints, and the Commission did not refer them to us. The Tribunal does not have the jurisdiction to bypass the referral process set out in the Act.

[4] I have also included directions to the parties about what to do next, and have set deadlines and limits they must respect.

II. LEGAL FRAMEWORK

[5] The Tribunal’s role is to hear and decide complaints the Commission refers to it (sections 40, 44 and 49 of the Act). Its jurisdiction is limited by the scope of the complaint filed with the Commission and the Commission’s referral decision (*Connors v. Canadian Armed Forces*, 2019 CHRT 6 at paras 27–28).

[6] The Tribunal can amend, clarify and determine the scope of a complaint to determine the real issues in dispute between the parties. However, the new allegations must be part of the same factual continuum as the original complaint and have a sufficient nexus with it, provided including them does not cause prejudice to the other parties (*Canada (Attorney General) v. Parent*, 2006 FC 1313).

[7] Amendments cannot introduce a substantially new complaint as this would bypass the referral process set out in the Act (*Richards v. Correctional Service Canada*, 2025 CHRT 5, para 36 at para 10).

III. ANALYSIS

[8] To decide whether to allow the allegations in Ms. MacDonald's motion, I must first determine the substance of the complaints she filed and that the Commission referred to the Tribunal.

Complaint #1

[9] Ms. MacDonald filed this complaint alleging discrimination on the grounds of sex under sections 7 and 14 of the Act on April 25, 2015. The allegations cover the period of from **December 2013 to June 2015** when she applied for and was recruited to the Reserve Force in St. John, New Brunswick. The complaint alleges that:

1. A CAF recruiter and other personnel gave her inaccurate or misleading career path information which led her to accept an entry level job as a medical technician in the Reserve Force, which made it more difficult for her to become a social worker officer;
2. She witnessed and was subjected to sexual harassment from individuals in the Reserve Force; and
3. CAF required her to undergo medical assessment to prove fitness for duty as retaliation because she complained to them about sexual harassment.

[10] Ms. MacDonald did not include names, dates or any other details about the alleged sexual harassment in this complaint.

Complaint #2

[11] Ms. MacDonald filed her second complaint on March 31, 2016 alleging discrimination based on sex and disability under sections 7, 10 and 14 of the Act. The complaint relates to her time in the Canadian Forces Leadership and Recruit School (“CFLRS”) in Saint-Jean-sur-Richelieu, Quebec, where she underwent basic training in the Regular Force from October 2015 to January 2016. The complaint covers the period from **March 2014 to January 2016** and includes particulars of the alleged harassment and medical examination that she included in the first complaint. Ms. MacDonald alleges:

1. When she was transferred to the Regular Force, CAF offered her a Social Worker Officer contract at the rank of Second Lieutenant instead of Captain, which was not commensurate with her prior achievements and training;
2. CAF’s internal investigation into her sexual harassment allegations in the Reserve Force were insufficient; and
3. She witnessed and was subject to more sexual harassment while in basic training at CFLRS between October 2015 and January 2016 which the Chain of Command did not appropriately address.

[12] The Commission referred the entirety of both complaints to the Tribunal on March 7, 2018.

[13] Ms. MacDonald relies on *Mohamed v. Royal Bank of Canada*, 2023 CHRT 20 [*Mohamed*], *Temate v. Public Health Agency of Canada*, 2022 CHRT 31 [*Temate*], and *Connors v. Canadian Armed Forces*, 2019 CHRT 6, arguing that the Tribunal has broad discretion to examine all relevant workplace discrimination and retaliation claims, and that these cases support the inclusion of her allegations of administrative retaliation and sexual assaults.

[14] These authorities do not assist Ms. MacDonald. In *Temate*, the Tribunal dismissed the motion to expand the complaint to include retaliation allegations because the allegations of retaliation referred to events that happened prior to the filing of the original complaint. In *Mohamed*, the Tribunal allowed the retaliation allegations because it believed they were part

of a continuum of the claims that gave rise to the original complaint, and that they were tenable. It did not think they were bound to fail, or that the respondent would suffer any prejudice. In *Connors*, in contrast to Ms. MacDonald's proceeding, the Tribunal found that the alleged events of sexual assault and sexual exploitation were specifically mentioned in the wording of the complaint.

(i) Are the retaliation allegations within the scope of these complaints?

[15] No. The alleged forced medical examination pre-dates the filing of her complaint. For the other allegations, it is not enough to merely post-date the filing of a human rights complaint for them to be added as allegations of retaliation under s.14.1 of the Act.

[16] Ms. MacDonald argues that CAF retaliated against her through forced mental health evaluation, career obstruction, rank misclassification, character attacks and workplace hostility, which she said she included in her second complaint and which she seeks to add as the separate discriminatory practice of retaliation.

[17] The Commission takes no position on this request. CAF consents to the addition of the retaliation allegations, arguing that Ms. MacDonald generally made these factual allegations in her complaints and in her various particulars.

[18] By definition, retaliation allegations under s.14.1 of the Act will always come after complaints are filed. I agree with the Commission that the April 27, 2015 filing date of the first complaint would serve as the starting point for the retaliation allegations. The allegation about the medical test Ms. MacDonald was forced to undergo on March 13, 2015 as retaliation pre-dates the filing of Ms. MacDonald's complaint. It cannot constitute retaliation under s.14.1 of the Act and will fail.

[19] In deciding whether to add the remaining allegations as retaliation under s.14.1, I am not engaging in a substantive review of the merits of Ms. MacDonald's claims of retaliation, which must be done after hearing evidence at a hearing. However, the proposed allegations must still disclose a tenable claim for retaliation under the Act to be added (*Bressette v. Kettle and Stony Point First Nation Band Council*, 2004 CHRT 2 at paras 6-7). To establish retaliation under the Act, there still must be at least a *reasonable* perception that retaliation

has occurred. This injects a necessary objective element into the test (*Millbrook First Nation v. Tabor*, 2016 FC 894 (CanLII), at para 64).

[20] In my view, the fact that the remaining allegations post-date the filing of the first complaint is not enough to establish a tenable claim that CAF retaliated against Ms. MacDonald. Section 14.1 of the Act is not about retaliation because a complainant filed an internal complaint, or a grievance, or started any other proceeding. It is only in relation to allegations of retaliation or threat of retaliation because of the filing of a complaint with the Commission under the Act.

[21] In her motion, Ms. MacDonald relies on *Matson v. Canada (Attorney General)*, 2018 CHRT 15, *Watson v. Canada (Attorney General)* 2020 CHRT 22 and *Turner v. Canada Border Services Agency*, 2019 CHRT 31. I could not find those cases, and the citations and the principles Ms. MacDonald claims they stand for are all inaccurate. I do not know where those cases come from, but the Tribunal authorities she relies on do not exist. At the end of this ruling, I provide direction to the parties about their obligation to ensure their submissions and the authorities they cite are accurate. Parties are responsible for the actions and choices they make in their proceedings, and it is not for opposing party or the Tribunal to check anyone's work.

(ii) Are the sexual assault and sexual coercion allegations part of the original complaints?

[22] No. The complaints do not mention allegations of sexual assault and the Commission did not investigate them. Rape and sexual assault do not merely clarify or refine claims of sexual harassment.

[23] Ms. MacDonald's second complaint includes a number of allegations of sexual harassment and discriminatory comments that were either directed to Ms. MacDonald or that she witnessed. Among other things, these include comments and conduct by several CAF personnel who made comments about sex, jokes about being raped, spoke negatively about women's leadership styles, gave sexualized instructions. Her allegations about the CFLRS include references to a sexualised culture, the objectification of women in training

materials, comments about engaging in sexual activities and about women's bodies and sex lives.

[24] Ms. MacDonald also alleges in her complaints that when she was injured, she was sent to sleep in the "green sector" where men and women are in an open bunk separated by a curtain and self-policed. She says she did not feel comfortable sleeping there and that she was putting herself at danger of sexual assault by sleeping in an open area separated only by a curtain with men who openly sexualised female recruits.

[25] Ms. MacDonald wants to include the following sexual assault allegations and says they are part of sexual misconduct and a broader pattern of systemic abuse within CAF that intensified following her reports of workplace harassment:

- On or around January 23, 2015, Eduardo Lucke, an employee of the Department of National Defence (DND), forcibly confined and sexually assaulted her;
- On or around March 13, 2015, Col. Stéphane Masson sexually coerced her; and
- On or around January 25, 2016, a training course instructor groped her breasts.

[26] Both Ms. MacDonald and the Commission argue that the sexual assault allegations are part of the same pattern or have roots in the substance of the complaints she filed in 2015 and 2016. Ms. MacDonald also alleges that she delayed including allegations of sexual assault due to procedural barriers, resource imbalances, and systemic silencing. She says it is my duty to ensure she can plead the entirety of her case, that excluding these allegations would reward suppression over truth. The Commission also argues that CAF addressed some of the sexual assault allegations in its SOP and that there is no prejudice to the Respondent because the matter is still at the pleadings stage.

[27] CAF's position is ambiguous. On the one hand, it says it does not oppose the inclusion of the sexual assault and sexual coercion allegations. Yet it also says it is impractical and unfair for it to be required to respond to these expansive new allegations, arguing that the complaints have been shifting targets with an ever-growing scope and number of allegations. It argues these allegations were first mentioned in 2023, seven to eight years after Ms. MacDonald filed her complaints. It therefore did not have the

opportunity to present evidence to the Commission, nor could it make contemporaneous inquiries and take any action to preserve evidence related to these alleged sexual assaults.

[28] There is no mention in the complaints of alleged incidents of sexual assault, rape or other forms of physical assault. The Tribunal cannot add what amounts to a substantially new complaint. Ms. MacDonald's complaints allege sexual harassment and that CAF created a sexualised culture in the workplace. I do not accept that rape and sexual assault merely "clarify" allegations of sexual harassment or comments or are reasonably part of the factual foundation or allegations Ms. MacDonald set out in her complaint. There is a substantive difference between alleged sexual harassment in the form of comments and jokes and having to sleep in the "green sector" on the one hand, and alleged incidents of rape and sexual assault on the other.

[29] While the Commission argues that I should include these allegations because it would ensure that the Tribunal considers the full scope of the issues in its determination, particularly given "Justice Arbour's ground-breaking 2022 report, which noted systemic sexual misconduct in the CAF", the Tribunal is bound by the Act. I have no authority to bypass the Commission referral process, and the Act does not allow it (see *Mohamed v. Royal Bank of Canada*, 2023 CHRT 20 at paras 10 and 12). This is an inquiry into allegations Ms. MacDonald made in two complaints she filed in 2015 and 2016 and that the Commission referred in 2018. It is not a broader study into alleged sexual misconduct in the CAF and Justice Arbour's report does not change my statutory obligation to respect the Act.

[30] Further, the consent of the parties to include allegations is not determinative and cannot confer jurisdiction. It is not because Ms. MacDonald added allegations to her SOPs and that CAF responded to them in some way that I can ignore the statute. The parties cannot agree to opt out of the Act, nor do they decide on the Tribunal's jurisdiction by filing or responding to SOPs.

(iii) Are the allegations about separate law enforcement and oversight agencies in scope?

[31] No. Ms. MacDonald's allegations against the military police, RCMP and oversight agencies such as the Military Police Complaints Commission of Canada (MPCC) which took place in 2020, 2021, and later, cannot be linked back to the complaints the Commission referred which were against CAF in the context of employment and alleged harassment. They were not complaints alleging that the military police, RCMP or MPCC failed to properly conduct criminal investigations or proper oversight. It is not because the complaints included allegations of harassment and failures within CAF to properly investigate that other agencies or entities to which Ms. MacDonald may have complained are also within the scope of this complaint. Those would be new complaints I have no authority to add.

[32] Ms. MacDonald says these allegations are not new and that the Tribunal must manage its process in a way that protects access to justice. She submits the Tribunal can consider the full factual matrix of discrimination and retaliation, including her submissions between 2018 and 2024 which she says fill the investigative void left by the Commission and include the refusal of the military police and RCMP to investigate sexual misconduct.

[33] The allegations are broad, in some cases postdate the complaints by several years and involve agencies that are separate from CAF and the Department of National Defence (DND). I agree with CAF that adding them would cause significant prejudice to the Respondent and to these proceedings. Modifying and expanding pleadings, document and witness lists, and hearing time to address these broad allegations against different agencies is materially different from the factual foundation of the original complaints. This will most certainly add delay and lengthen these proceedings.

[34] While Ms. MacDonald submits that the Tribunal has jurisdiction over federal police and other federal entities, that is not the point. The Tribunal cannot add allegations that have no reasonable nexus to the original complaints, simply because they involve claims against a federal agency.

IV. NEXT STEPS

[35] The Commission referred Ms. MacDonald's complaints to the Tribunal in 2018. Ms. MacDonald has had two different legal representatives and there have been multiple extensions and delays. She filed two versions of her Statement of Particulars (SOPs) in 2019 and 2023 as well as an 82-page document which included the allegations of sexual assault, sexual coercion and failures by military police to investigate, following CAF's request for additional particulars.

[36] The Commission also filed two versions of its SOPs. In 2024, CAF filed its SOP, which included some response to the sexual assault allegations. Ms. MacDonald did not file a reply and instead filed this motion. She also filed several supporting documents and communications. Her original motion reply was 348 paragraphs long, exceeded the scope of a proper reply, added more allegations and included fake and hallucinated cases. The Member at the time ordered her to refile the motion reply.

[37] There have been two separate Tribunal members who have had carriage of these files and who have since resigned or ended their mandate, most recently in the fall of 2025. Two Tribunal-assisted mediations were conducted in 2018 and 2020 but the parties did not resolve the complaints. Between them, the parties have exchanged numerous communications and hundreds of pages of materials, separate and apart from numerous disclosure requests.

[38] This approach is untenable. It flies in the face of s. 48.9(1) of the Act and what an administrative Tribunal is meant to do in dealing with complaints fairly and efficiently. It is in no one's interest to keep expanding and prolonging this complaint. Beyond the fact that I cannot allow impermissible expansions of the complaint that bypass the Commission referral process, this approach will serve no one's interests. It does not favour the aims of the Act or the public interest. It is also not compatible with a trauma-informed approach to allow an ever-expanding, elastic complaint process that never starts or finishes.

[39] The complaints Ms. MacDonald filed start with her recruitment process in 2013, cover her time in the Reserve Force in 2014 and 2015, her component transfer in 2015, and her time in the Regular Force at the CFLRS from 2015 to 2016. The parties need to focus on

that period and the scope of the complaint as defined in this ruling going forward. I will not be hearing evidence or extensive “context” on all the other details and particulars that have been put forward over the years.

[40] The matter must proceed at this point, but it cannot go forward in its current form. There are countless pages and supplementary submissions. I have provided detailed directions below.

Step 1: We need manageable, revised SOPs

[41] Before deciding this motion, I asked the parties to confirm the latest version of the SOPs. While the Commission filed two versions of an SOP, it has since reduced its level of participation in these proceedings. It is not participating in the hearing or leading any evidence.

[42] We need clean, clear, manageable SOPs that are a reasonable length and that are proportionate to the complaints the Commission referred so that this matter can move forward and so that all parties know what the Tribunal will be adjudicating. This will also guide any future discussions on disclosure and witnesses.

[43] As CAF objected to the inclusion of some of the allegations and asked the Tribunal to limit Ms. MacDonald’s use of particulars that exceed the scope of the complaint, I am directing it to propose amended versions of the SOPs and additional particulars for both the Complainant and the Respondent, highlighting what it believes should be struck from Ms. MacDonald’s particulars to comply with this ruling. Ms. MacDonald can respond to the proposed changes and whether they align with my ruling. CAF can reply to her response if it wishes.

[44] Once I receive the proposed amended SOPs and submissions and have heard from the parties, I will confirm the changes and provide further direction.

Step 2: Disclosure and Witness Lists

[45] After I confirm the revised versions of the SOPs, the parties will have to confirm that they disclosed all arguably relevant materials **based on the scope I have defined in this**

ruling, and not on what they set out in previous versions of their SOPs. Given the many, many years they have had and their multiple discussions about disclosure in writing and during case management conference calls (CMCCs), I expect this process to be complete or to require minimal updating. I cannot imagine there is much more to disclose at this point particularly since the scope I have defined here is in keeping with the complaints the Commission referred, and therefore narrower than what these complaints were morphing into.

[46] Disclosure is not an opportunity to do through the back door what the parties could not do through a motion to expand the scope of the complaint. The parties are not required to disclose materials that exceed the scope of the complaints in this proceeding and will not be permitted to file further requests for disclosure without leave from the Tribunal.

[47] Further, they must not send any documents to the Tribunal until they are directed to do so. Once we have scheduled the hearing, I will confirm with the parties when they must send their books of documents and proposed exhibits. Anything they send now will be returned to them and deleted from the record, and nothing they have already sent is evidence until it is admitted at a hearing.

[48] Ms. MacDonald's first SOP included a witness list of 96 witnesses. This is untenable and the Tribunal will not proceed with a witness list of this magnitude. It is the Tribunal's job to inquire into the complaints the Commission referred, but we remain masters of our process. The parties do not have the right to unlimited hearing time. Other complainants and parties are waiting for their cases to be heard. The parties' evidence and the time I allow for the hearing must be proportionate to the issues in this case.

[49] The parties will have to make choices, and I will work with them to get their lists down to a reasonable and manageable level. They are on notice that they must review and revise those lists, starting with Ms. MacDonald. This is her complaint, and CAF can choose to call evidence, or none. If she intends to call a witness who may or may not be on CAF's list, she should ensure they are on her list in the event CAF does not undertake to call that person.

[50] Rules 18–20 of the Tribunal's Rules of Procedure require parties to file "the name of each witness, other than expert witnesses, whom they intend to call, along with a summary

of the witness's anticipated testimony" with their SOPs. The parties are on notice that they will be required to include proper witness summaries that go beyond vague statements that do not assist the Tribunal in understanding the anticipated evidence they want to call (see *C.D. v. Canadian Armed Forces*, 2026 CHRT 4 at paras 10-12).

Page limits and use of AI

[51] The volume of materials in this proceeding is untenable. Setting limits does not mean the Tribunal is minimising the importance of the issues to the parties, or to the public interest. It means that it is trying to ensure this case finally gets heard, and that it ends. That cannot happen with excessive materials and communications, before the hearing has even started.

[52] To that end, I am putting the parties on notice that they must respect the page and time limits I am setting in this matter. They must also respect the Tribunal's Practice Direction on the Use of Artificial Intelligence (AI) in Tribunal proceedings. If a party suspects in future that an authority is hallucinated, they should not spend time preparing detailed submissions analysing each case but should bring it to the Tribunal's attention in one short email, following which I will give the other party the opportunity to respond before providing direction. AI can be a tool to help and support the needs of parties, including self-represented ones, but it should not be yet another distraction from the merits of Ms. MacDonald's claim. Each party is responsible for the accuracy of its submissions.

[53] A failure to respect the directions I have made in this ruling will result in the materials being returned to the party, and they will be deleted and not form part of our record.

Mediation

[54] The parties previously tried to resolve the complaints. This is always an option available to them, either on their own or with the help of a Tribunal mediator. If they both agree and want the Tribunal's assistance to try and resolve the complaint, they should advise the Registry as soon as possible, and I can appoint someone who can work with them at very short notice. The deadlines set out below remain in place, however, and they are required to comply with them, unless otherwise directed.

V. ORDER

[55] The motion is dismissed.

[56] **By no later than July 8, 2026**, CAF must file a fresh set of proposed amended SOPs, highlighting what it suggests should be struck in keeping with this ruling and my findings on the scope of the complaints. It may send a 5-page accompanying written submission explaining its proposals (12-point font, double spaced, standard margins).

[57] By no later than **July 15, 2026**, Ms. MacDonald may file a 5-page response to the proposal if she disagrees with the proposed changes following her review (12-point font, double spaced, standard margins).

[58] **By no later than July 20, 2026**, the CAF may file a 5-page reply to Ms. MacDonald's response (12-point font, double spaced, standard margins).

[59] Following the confirmation of the SOPs, the Tribunal will provide further direction on disclosure and witness lists. It will also canvass the parties for a case management conference call to address any outstanding issues, including setting hearing dates.

Signed by

Jennifer Khurana
Tribunal Member

Ottawa, Ontario
June 23, 2026

Canadian Human Rights Tribunal

Parties of Record

File Nos.: T2259/1418 and T2260/1518

Style of Cause: Paula MacDonald v. Canadian Armed Forces

Ruling of the Tribunal Dated: June 23, 2026

Motion dealt with in writing without appearance of parties

Written representations by:

Paula MacDonald, Self-represented

Sameha Omer, for the Canadian Human Rights Commission

Charles Maher, for the Respondent