



HUU-AY-AHT TRIBUNAL NOTICE OF RESPONSE RESPONSE OF ADMINISTRATIVE DECISION MAKER

FORM B1

NOTES: This form is to be used for a Response by or on behalf of an administrative decision maker responding to an Application.

If there is not sufficient space on this form for any of the information required, you may attach a schedule and reference it in the space provided. You may also attach documents if necessary.

Responses must be filed with the Tribunal within 14 days of service of the Notice of Application.

APPLICATION RESPONDED TO

This is the Amended Response to Application # **2014-004**

RESPONSE TO GROUNDS Briefly set out your position on the Grounds for Appeal advanced in the application, including any relevant additional facts.

1. Helen Robertson was already an employee of the HUU-AY-AHT at the time she was promoted to the permanent position of Office Administrator.

Additional Facts

2. Executive Council has considered whether disciplinary action is warranted or necessary in the circumstances and decided that it is not.
3. As a government member the Applicant is not allowed to hold any other position as a public officer without the express approval of Executive Council (*Code of Conduct and Conflict of Interest Act, s. 7(1)*).

RESPONSE TO RELIEF SOUGHT Set out your position on the relief sought in the Application.


The Respondent objects to the relief sought on the following bases:

1. The Executive Director may fill a position by promoting an employee, in which case the position need not be advertised (*Human Resources Policy Regulation, Schedule 1, Policy No. A 2.9*). The decision to promote Ms. Robertson to the position of Office Administrator was thus lawful.
2. Further and in the alternative, it is Executive Council as the Respondent's employer, and not the tribunal who is responsible for investigating and considering what, if any, disciplinary action should be taken in relation to any alleged contravention (*Financial Administration Act, s. 86(2)*). Executive Council's decision that no disciplinary action is necessary or warranted is a lawful decision of Executive Council, which the Applicant, as a member of Government, has a duty to uphold (*Code of Conduct and Conflict of Interest Act, s. 4(1)(c)*). This Application is an impermissible collateral attack on that lawful decision.
3. Declaratory relief is not an appropriate remedy as no right or interest of the Applicant that is affected by the impugned decision is raised in the factual situation.
4. The Application was filed over five months after the decision at issue was made. The time limit for an appeal of this type is 60 days. The reasons for the late filing provided by the Applicant do not constitute special circumstances that would warrant granting an extension of time of over three months for the submission of a notice of appeal.



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RESPONSE OF ADMINISTRATIVE DECISION MAKER

FORM B1

RESPONDENT		
Edwards	James	Executive Director
LAST NAME	GIVEN NAME(S)	POSITION
MAILING ADDRESS	CITY/TOWN	POSTAL CODE
PHONE	FAX	EMAIL ADDRESS
RESPONDENT'S AGENT <small>To be completed only if an agent will be acting on behalf of the Respondent.</small>		
Skeels	Melinda	
LAST NAME	GIVEN NAME(S)	
Suite 500 – 221 West Esplanade	North Vancouver	V7M 3J3
MAILING ADDRESS	CITY/TOWN	POSTAL CODE
(604) 988-5201	(604) 988-1452	mskeels@ratcliff.com ccraighead@ratcliff.com
PHONE	FAX	EMAIL ADDRESS
ADDRESS FOR DELIVERY <small>This will be used to deliver any notices in relation to the Application. Note: the Tribunal's preferred means of communication is through email.</small>		
CHECK ONE: <input type="checkbox"/> Applicant's Email <input type="checkbox"/> Applicant's Fax <input type="checkbox"/> Applicant's Mailing Address <input checked="" type="checkbox"/> Agent's Email <input type="checkbox"/> Agent's Fax <input type="checkbox"/> Agent's Mailing Address <input type="checkbox"/> Use Email or Fax or Address provided in space below:		
SIGNATURE <small>This notice must be signed by the Respondent or Respondent's agent.</small>		
FIRST AND LAST NAMES OF PERSON SIGNING		
January 22, 2014 Amended April 2, 2014		
DATE	SIGNATURE	
For Office Use Only	Date Received: _____	