

Further Amended Applications March 17, 2014

Application of Charlene Kruse 2013-002

Decision Appealed:

Purported amendment to Huu-ay-aht administrative organizational structure, made on or about June 5, 2013, eliminating the position of Director of Finance and requiring Finance Department staff to report directly to Executive Director.

Respondents:

Executive Director (James Edwards) and Executive Council.

Relief Sought:

Declaration that the purported amendment to the Huu-ay-aht administrative organizational structure by the Executive Director and/or the Executive Council on or about June 5, 2013 eliminating the position of Director of Finance was unlawful (pursuant to s. 24(a) of the *Tribunal Act*).

Grounds for Appeal:

The administrative organizational structure of the Huu-ay-aht First Nations (“Huu-ay-aht”) is established in the *Human Resources Policy Regulation*, s. 5(6). In the spring of 2013, this organization structure included a Director of Finance and Government services. Under this structure, staff from the finance department reported to that Director, who in turn reported to the Executive Director.

The position of Director of Finance and Government Services became vacant as of about April 15, 2013, when James Edwards, who had previously held that position, was promoted to the position of Executive Director.

On June 5, 2013, the Executive Director finalized a *Report of Executive Council on People’s Assembly on Administrative Organizational Structure* for the People’s Assembly scheduled for June 22, 2013 (“June 5 Report”). The June 5 Report showed the position of Director of Finance and Government Services as eliminated and showed the staff of that department reporting directly to the Executive Director. The June 5 Report was posted on huuayaht.org prior to June 22, 2013.

The position of Director of Finance and Government Services was never filled again. On January 30, 2014, the Executive Council passed the *Human Resources Policy Regulation Amendment Regulations, 2014*, which amended the Huu-ay-aht administrative organizational chart in the

Human Resources Policy Regulation and eliminated the position of Director of Finance and Government services. This amendment came into force on February 3, 2014.

The purported modification of the Huu-ay-aht organizational structure as set out in s. 5(6) of the *Human Resources Policy Regulation* by the Executive Director and potentially the Executive Council in June 2013 was not made in a lawful manner.

Request for Late Filing of Application

Although I filed my Application outside the 60 day time limit, I am requesting that the Tribunal nevertheless agree to hear it, pursuant to *Tribunal Act* s. 21(2). I believe that there are special circumstances that justify this request.

I travelled to Edmonton in June and returned on June 25, 2013. Shortly after my return, I saw the June 5 Report by accessing it at huuayaht.org. The elimination of the Finance Director position caught my eye, and was something I intended to look into. I wanted to look into this but not all of the relevant documents were posted online.

On October 25, 2013, I took a day off work to inspect records in the Huu-ay-aht Registry, at the Port Alberni Huu-ay-aht Government Office (“Government Office”). There I saw for the first time the June 5, 2013 Report was different from the version of the report dated May 21 and approved by the Executive Council on June 4, 2013.

Based on my review of documents at the Government Office, I concluded that I had serious concerns about a number of aspects of Huu-ay-aht administration and decision-making, and that I needed to follow up on these. I requested a meeting with Chief Councillor Jeff Cook to share my concerns. This meeting took place on October 31, 2013. I raised all of the concerns that I raised in my original Application. I told him that I wanted follow-up on the concerns I was raising, that I did not want to have to take my concerns to the Tribunal, but that I would if they were not addressed.

I did not hear back from Chief Cook and so I emailed him on November 13, 2013. He replied the next day but I did not find his answers satisfactory. I proceeded to educate myself about the Tribunal process, and filed my Application on or about November 26, 2013.

I was not familiar with the Tribunal process before I looked into it in November 2013. The Tribunal is very new to our Nation, and so far has hardly been used by any citizens. I did not know how it worked and had no idea that there was a 60 day time limit for filing applications. Had I known, I would have made a point of going to the Government Office to look into my concern about the amended organizational structure sooner.

Given that I had no idea that there was a 60 day limit for filing claims with the Tribunal and that the Tribunal is a completely new institution to me and HUU-AY-AHT citizens generally, I believe that I have been a diligent HUU-AY-AHT citizen in following up on my concern about the HUU-AY-AHT administrative organizational structure.