

FIRST NATIONS LEADERSHIP COUNCIL

NEWS RELEASE

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Canada's Lack of Transparency and Accountability to First Nations Children and Families Furthers Denial & Discrimination

(X̣ẉṃə̣θ̣ḳẉə̣ỵəm (Musqueam), Ṣḳẉx̣ẉụ́7̣mesh (Squamish) and ṣə̣ḷiḷẉə̣ṭạʔ̣/ṣə̣ḷiḷẉiṭuḷh (Tsleil-Waututh)/Vancouver, B.C.) — The First Nations Leadership Council (FNLC) is expressing profound frustration with Canada's continued attempts to distract and avoid paying the compensation it has been ordered to by the Canadian Human Rights Tribunal (CHRT). Canada is seeking a stay of proceedings and judicial review of the CHRT decision in *First Nations Child and Family Caring Society of Canada and Assembly of First Nations et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)*, (2019 CHRT 39) in hearings that began on November 25th in Ottawa. In a last-minute attempt to distract and delay, Canada issued a statement yesterday indicating they would be willing to settle a separate class action rather than pay out the compensation as ordered by the CHRT.

In the September 2019 order, the CHRT found that Canada had “willfully and recklessly” discriminated against First Nations children and families by continuing discriminatory funding formulas that incentivized First Nations children being brought into care rather than providing the resources and services that could see them remain within their families, and ordered that Canada compensate children, youth and their families who were victim to this discrimination. Eligible claimants are those children and their caregivers where an “unnecessary” removal took place. Caregivers who physically or sexually abused the child would not be eligible. Canada was ordered to enter into discussions with the Assembly of First Nations and the First Nations Child and Family Caring Society of Canada (FNCFCFS) to determine a process for compensation, to be presented to and reviewed by the CHRT. Instead of doing as ordered, Canada filed for judicial review and a stay of proceedings pending the outcome of the judicial review. In seeking the review, Canada has argued that the CHRT over-reached in issuing an order for compensation, and Canada will suffer irreparable harm should the order be upheld.

On the same day that the Federal Court hearings began, Canada announced that it would certify a class action brought on behalf of First Nations children and youth who had suffered discrimination as a direct result of First Nations child and family services funding formulas. Canada indicated their reasons for this is to ensure equitable funding for all of those impacted between 1991 and 2019, which would include eligible claimants beyond the CHRT compensation ruling. Many advocates, including the Assembly of First Nations and the FNCFCFS who are lead plaintiffs in this case, argue that Canada is not acting in good faith and is looking for a way to avoid meaningful compensation to those eligible. The First Nations Leadership Council agrees.



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“This announcement by Canada is purely intended as a distract and delay tactic, to avoid providing First Nations children, youth and families with the compensation that they deserve and what has been ordered by the CHRT” said Kukpi7 Judy Wilson, Secretary-Treasurer of the Union of BC Indian Chiefs. “There is nothing stopping Canada from also settling this class action, but the burden should not be placed on children to justify or testify to the harm that they have suffered as a result of these colonial child welfare policies. Historically, the exploitation of vulnerable people by the legal profession has been a major concern. For children and youth, this is a further serious issue for First Nations leaders.”

“The governments have been aware of the potential for compensation to First Nations children and families for years,” said Cheryl Casimer of the First Nations Summit Political Executive. “The government should be putting its energy into meaningfully compensating those children, youth and families impacted, rather than trying to find a loophole to avoid paying them what they are due. The proposed class action settlement does not acknowledge or compensate the parents and grandparents who have also been failed and traumatized by this system. They also deserve justice and fair compensation and we must ensure that it is received.”

“The Assembly of First Nations has been fighting for an equitable and meaningful response to the discriminatory child welfare policies and practices that have impacted First Nations children and families for over a decade,” said Regional Chief Terry Teegee of the BC Assembly of First Nations. “This case was brought before the CHRT because the very basic human rights of First Nations children and families were impacted and continue to be impacted. The certification of a class action is only one step in a long process for that claim currently before the courts. Canada needs to stop fighting First Nations children and families in court, and instead dedicate itself to providing the resources to end the current First Nations child welfare epidemic that is happening in Canada.”

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