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Human rights decision recognizes the right of a First Nations child to equitable access to services

A recent decision of the Manitoba Human Rights Adjudication Panel recognizes the right of a First Nations child with disabilities, and his family, to access health care services on an equal level with other Manitobans.

The case centers around a young man named Dewey who lives with his family in Pinaymootang First Nation and experiences a variety of intellectual, cognitive and physical disabilities. Dewey's mother filed a human rights complaint alleging that the Government of Manitoba discriminated against Dewey and his family on the basis of his ancestry and disability by creating delays, denials, and disruptions in his access to disability-related services. According to the Complainant, the lack of equitable disability-related services not only discriminated against Dewey but also other First Nations children with disabilities. Dewey's family also filed a complaint of discrimination with the Canadian Human Rights Commission, alleging that the Government of Canada similarly discriminated against Dewey and other First Nations children with disabilities.

At a hearing before the Manitoba Human Rights Adjudication Panel, the Complainant, who was represented by the Public Interest Law Centre, and the Manitoba Human Rights Commission were successful in proving that Dewey was discriminated against by the Government of Manitoba. In his decision, Adjudicator Robert Dawson wrote "No government or other official intended to treat the complainants differently by reason of their ancestry as Anishinaabe people. However, that was the very effect of the whole of the assorted policies, practices, and even laws that try to carve out the concurrent jurisdiction of the federal and provincial governments in respect of health care and related services for First Nations people living in First Nations communities. Those intergovernmental arrangements caused health care and related services to be denied, delayed, or intermittently interrupted for the complainants. The same problems did not afflict neighbouring non-First Nations communities, and those residents enjoyed health care and related services without denial, delay, or interruption" (at paragraphs 22-23).

While the issue of jurisdiction was raised by the Government of Manitoba as an explanation for the lack of service provision to Dewey, Adjudicator Dawson noted that the "Canadian constitutional framework does not amount to a reasonable justification for the discriminatory treatment of the complainants" (at paragraph 25). Accordingly, the

decision finds that the discriminatory treatment of Dewey and his family could not be justified.

Despite concluding that the experience of discrimination felt by Dewey and his family was a result of policies, practices and procedures, the Adjudicator concluded that there was insufficient evidence to prove that other First Nations children were also being discriminated against.

“While we are pleased that this decision recognizes the discrimination experienced by Dewey and his family, the Commission is deeply concerned that the Adjudicator ignored the compelling evidence from multiple witnesses, as well as legal precedent, which we believe set out a clear basis for a finding of systemic discrimination,” said Karen Sharma, A/Executive Director of the Manitoba Human Rights Commission. The Commission maintains that *all* First Nations children are entitled to equitable access to disability related services. “For over 16 years, Dewey’s essential needs were deemed secondary to jurisdictional disputes,” stated Sharma. “A commitment to human rights means that we must put the needs of children before boundaries and budgets.”

The decision *Sumner-Pruden v. Government of Manitoba* can be found at www.manitobahumanrights.ca.

For more information about Dewey and his family, please watch the video below prepared by the Commission:

English with captions: <https://www.youtube.com/watch?v=XXPD3OFVCx8&t=10s>

Described video: <https://www.youtube.com/watch?v=25xWU2RMxTM>

En Français: <https://www.youtube.com/watch?v=QFBnfWoU7Bs>

To arrange an interview please contact (204) 945-3007 or hrc@gov.mb.ca