

**IN THE MATTER OF the NWT Human Rights Act,  
S.N.W.T., 2002, c. 18, as amended; AND IN  
THE MATTER OF a complaint filed by Glen Villebrun  
Against BHP Billiton Diamonds Inc., Gary Eyres and  
Transwest Mining Systems, a Division of KLC West Holdings Inc.**

**BETWEEN:**

**GLEN VILLEBRUN**

**(the “Complainant”)**

**-and-**

**BHP BILLITON DIAMONDS, INC. and GARY EYRES**

**(the “Respondents”)**

**DECISION**

Date of Decision: June 27<sup>th</sup>, 2008

Before: James R. Posynick  
Chair, NWT Human Rights Adjudication Panel

Appearing:

John Davidson, Legal Counsel for Glen Villebrun  
Bruce R. Grist, Legal Counsel for BHP Billiton Diamonds Inc. (“BHPB”)

**1. INTRODUCTION**

On May 13<sup>th</sup>, 2008, a teleconference took place which was attended by legal counsel for BHPB, Mr. Villebrun and his then agent, Marie Jewell. Ms. Jewell advised me that she would no longer be acting for Mr. Villebrun. Mr. Villebrun advised that he had contacted a lawyer (“Stephen Cooper”) who needed two weeks to review the file materials before determining whether he would act for Mr. Villebrun. Mr. Villebrun stated that, in any case, he intended to conclude this matter “in a month”.

Mr. Grist’s client requested that a peremptory date be fixed for Mr. Villebrun to file his final submissions in this matter. I declined to do so however I directed Mr. Villebrun to notify both Mr. Grist and the tribunal’s offices by May 30<sup>th</sup>, 2008, as to whether he had legal representation and whether he anticipated any difficulty filing his final submissions by June 30<sup>th</sup>, 2008.

On June 26<sup>th</sup>, 2008 another teleconference took place. Mr. John Davidson appeared on behalf of Mr. Villebrun. He explained that he had only recently received the file

materials from Mr. Villebrun and that he was preparing for a lengthy holiday and would be unable to meet the June 30<sup>th</sup> deadline for filing submissions on Mr. Villebrun's behalf. Given Mr. Davidson's intervening holiday and the work that he will have to do upon his return, he said that the earliest that he could file the submissions would be October 3<sup>rd</sup>, 2008.

The Respondent made application to disallow the Complainant any further adjournments. Mr. Grist noted that Mr. Villebrun had failed to follow the directions of the tribunal given on May 13<sup>th</sup>. He said that Mr. Villebrun was already responsible for considerable delay in getting this matter heard and concluded. His client, he said, had been waiting since 2004 to have this matter concluded. Mr. Grist stated that further delay would prejudice his client if the outcome included a reinstatement order or an award of back pay. Mr. Grist said that by Mr. Villebrun's own action he had "lost the right" to make further submissions at this stage of the proceedings.

I adjourned the matter until the following day to consider the submissions of counsel.

## **2. DECISION**

I have given consideration to the procedural history of this case including delays that may have been occasioned by Mr. Villebrun (or his agent) who has been without legal representation throughout. I have taken into account the circumstances surrounding the withdrawal of Ms. Jewell's assistance to Mr. Villebrun and the difficulty he has had trying to obtain legal counsel.

In my view the delay arising from Mr. Villebrun's request for further time to file his submissions is not so serious that Mr. Villebrun should be deprived of his right to respond to the final submissions made by the Respondent. Further, there is no undue prejudice to the Respondent to be occasioned by giving Mr. Villebrun the opportunity to be represented by legal counsel and file his reply that cannot be addressed by the imposition of costs.

Consequently I order and direct that Mr. Villebrun shall have until the close of business on Friday October 3<sup>rd</sup>, 2008, to file with the Adjudication Panel and serve upon Mr. Grist his remaining written arguments/submissions. This order is made peremptorily.

I also order that the Respondent shall have its costs of the day for today and yesterday's teleconferences. Those costs shall be on a scale to be determined at the conclusion of the proceedings.

DATED this 27<sup>th</sup> day of June, 2008.

James R. Posynick  
Chair, Adjudication Panel