

Federal Court



Cour fédérale

Date: 20201022

Docket: T-835-20

Citation: 2020 FC 994

Ottawa, Ontario, October 22, 2020

PRESENT: The Honourable Mr. Justice Phelan

BETWEEN:

CHIEF EDWARD HALL

Applicant

and

**GEORGE CHAFFEE AND JOHN PETERS
(IN THEIR CAPACITY AS COUNCILLORS
OF THE KWIKWETLEM FIRST NATION)**

Respondents

JUDGMENT AND REASONS

I. Introduction

[1] This is the judicial review of a decision of July 22, 2020 made by the Kwikwetlem First Nation [KFN] Councillors George Chaffee [Chaffee] and John Peters [Peters]. The decision [Decision] was to remove Chief Hall [Hall], the Applicant, from his elected office as Chief of the

KFN for failing “to actively and clearly participate in fulfilling Council’s mandated activities” pursuant to s 7.3(e) of the *Kwikwetlem First Nation Custom Election Code* [*Election Code*].

The Applicant challenges the Decision as procedurally unfair and substantively unreasonable.

[2] The essence of the issue between Chaffee, Peters and Chief Hall distills down to a conflict about disclosure of certain Band business affairs and whether the Councillors individually or collectively can instruct the Chief on what he sees as his duties as Chief. It is at its root a political dispute about transparency in the First Nation.

[3] The consequences of the Decision are not only to remove a duly elected Chief but also to bar him from running in the subsequent by-election occasioned by his removal. It permits two Councillors to prevent the people of the KFN from selecting as Chief an individual whom they had elected approximately one year prior.

[4] At the core of Hall’s removal is his disclosure of a forensic audit report [KFN Update] which revealed questionable conduct of certain officials and employees of the KFN including those of a former chief. The KFN Update relates to mismanagement of resources, fraud and breach of fiduciary duty. The various steps and counter steps, claims and counter claims between the parties are part of the ongoing dispute about the disclosure of the KFN Update.

[5] The Respondent Councillors had brought a motion under Rule 151 of the *Federal Courts Rules*, SOR/98-106, to have the KFN Update treated as confidential in these proceedings. The

effect would have been to deprive those members of the KFN who did not already know about its contents, from knowing what was at the heart of these proceedings. For separate reasons, this Court denied the Respondents' motion.

II. Background

A. *Preliminary*

[6] The KFN is the band government of k^wik^wə^ʔəm, a people living in Coquitlam, British Columbia. The KFN consists of two reserves covering approximately seven (7) acres with a membership of about 110 people, half of whom live on the reserves.

[7] In November 2013, KFN adopted, by ratification, a custom election code and governance by its Chief and Council. In addition to this *Election Code*, there is a document in existence approved by Council but yet-unratified entitled *Kwikwetlem First Nation Chief and Council Code of Ethics [Ethics Code]*. Attached as Schedule A to these Reasons are excerpts from the *Elections Code* and the *Ethics Code*.

[8] The *Election Code* provides that Council means the elected members to Council and includes the Chief – three members. However, at a Council meeting, the Chief does not vote except in the event of a tie or the absence of one of the Councillors.

[9] Pursuant to sections 2.5 and 2.6 of the *Election Code*, the Chief is to carry out the business of KFN in accordance with a vision document and is the spokesperson of KFN for all functions within and beyond the Community.

[10] The Chief or any Councillor may be removed from office if two Council members vote in favour of a resolution.

[11] The Court notes that neither the *Election Code* nor the *Ethics Code* are models of clarity. The Codes often use terms like Chief and Council when the Chief is in fact a member of Council or terms like Chief and Councillor interchangeably with Council or Chief and Council. The lines of authority and governance are not clear, leading in part to the issues in this judicial review.

[12] Justice McVeigh issued an interlocutory order staying a planned by-election for the position of Chief pending the determination of this judicial review.

III. Facts

[13] The Applicant Hall was elected Chief on March 30, 2019. The Respondents Chaffee and Peters were elected Councillors at the same time. Chaffee and Peters are uncle and nephew.

[14] Previously, Hall was a Councillor and had clashed with former Chief Giesbrecht (who was the subject of much criticism in the KFN Update) to the extent that Giesbrecht had Hall removed in 2017. Peters replaced Hall on Council.

[15] Hall had run his 2019 campaign for the position of Chief on a platform of increased transparency and accountability regarding KFN's governance and business dealings.

[16] A key part of Hall's mandate was the engagement of forensic auditors to investigate possible mismanagement by former Chief Giesbrecht and his administration, of which Peters had been a member.

[17] On June 9, 2020, the forensic auditors released the preliminary results of the investigation which outlined significant concerns about the financial management practices of the previous Chief and Council commencing in 2017 – after Hall had been removed from office and been replaced by Peters.

[18] At the same time as the forensic audit, Hall was engaged in a dispute with Chaffee and Peters about numerous Band matters, in particular the issue of transparency of the audit results. Some of these other Band matters involved dealing with municipal and provincial officials, fishing and water rights, and the production/use of a video of IR2 (a part of the reserve).

[19] Over this time period from early April 2020, Hall received instructions from Chaffee and/or Peters directing him not to make various disclosures including the IR2 video, not to meet with officials, and other related matters. This dispute culminated in the firing of the KFN CAO, Ms. Sidhu, who was Hall's girlfriend – a fact well-known by the Councillors and others to which there had initially been no objection.

[20] Further to this running dispute, on June 2, 2020, in response to criticism from Chaffee and Peters, Hall agreed to take a week off work – whether as holidays or as a suspension is unclear.

[21] By June 9, 2020, the forensic auditors indicated that they would make a presentation reporting on the prior mismanagement of KFN including:

- sizeable loans without proper documentation and repayment terms;
- misleading information about a \$9 million loan from BMO;
- the provision of misleading information to auditors;
- duplicative work by hired consultants; and
- breach of ISC's funding agreement.

[22] On the same day, Hall received a letter of suspension of one week without pay alleging dishonesty, disclosure of confidential information, conflict of interest and inappropriate treatment of staff. The details of the offending conduct is important:

- lying to Council about his involvement in a water rights negotiation;
- contacting some elders about a video after having been told not to do so;
- ordering emails to be redirected away from the KFN Communications Manager to the acting CEO without Chaffee's and Peters' permission;
- disrespect shown to the Communications Manager; and
- previous breaches which included being in the relationship with the CAO, not taking proper COVID measures and insubordination.

[23] As part of the suspension letter, Hall was provided with five days to make written submissions to have the suspension rescinded or varied. These five days ran concurrently with Hall serving the suspension.

[24] On June 18, 2020, the Councillors confirmed the suspension and put Hall on notice that he faced a disciplinary hearing at which he could face further sanction up to removal from office on grounds identical to those upon which he was suspended.

[25] In response to Hall's request for particulars, these were provided on June 26, 2020, and a meeting set for June 29, 2020, to adopt a Band Council Resolution [BCR] to hold a disciplinary hearing. Hall did not attend the meeting.

[26] On June 19, 2020, Hall made a presentation on Zoom to some members of the KFN based upon and disclosing some of the KFN Update information. This was recorded.

[27] On July 4, 2020, Hall demanded the evidence relied upon in support of the allegations against him. This evidence was supplied on July 6, 2020, and the hearing date was set for July 9, 2020.

[28] What followed was a debate about the fair date for a hearing taking into account the restrictions due to COVID, and individual schedules. On July 9, 2020, Council, by way of a BCR, set the hearing date for July 16, 2020, a date to which Hall objected because of the insufficient time to prepare.

[29] At the July 16, 2020 hearing, Hall attended under protest. He addressed each of the allegations in an affidavit with documents in support, answered questions and provided oral and written submissions based on the evidence provided and allegations made. Hall denied the allegations as being untrue, raised procedural fairness concerns including that the Councillors had predetermined the matter, and that the punishment of removal, in any event, was unjustified.

[30] Of particular note is that the video which Hall was called upon to address was the drone flyover video of part of the KFN reserve (R2) with commentary on development changes.

In respect of the conflict of interest by virtue of the relationship to the CAO, the allegation was based on Hall forwarding two emails (one from the provincial government and the other from the city) to the CAO on May 25, 2020, when her dismissal was known to be effective May 26, 2020.

[31] Following a break in the hearing, legal counsel attempted to question Hall on evidence not previously disclosed and for which there was no notice or allegations. Hall objected and refused to answer.

[32] It was subsequently learned that during the break, the wife of Chaffee (Ms. Joe) was contacted and she provided the Councillors with a copy of the KFN Update presentation. The Applicant's discovery of this event arose from the affidavit of Peters filed August 10, 2020, in respect of the interlocutory injunction motion.

[33] The day after the hearing concluded, Hall received a lawyer's detailed letter concerning the disclosure of the contents of the KFN Update to KFN Elders by Hall. A response by the end of the day on July 20 was demanded to which Hall responded that the KFN Update matter was irrelevant to the July 16 hearing issues and all issues had been answered.

[34] On July 22, 2020, the Councillors issued their decision to remove Hall from office, effective immediately. The grounds for removal were:

- breach of confidentiality by disclosing the KFN Update information; and
- conflict of interest in forwarding two letters to the CAO knowing she was to be terminated.

The Decision purported to quash the suspension although it had been confirmed on June 18, 2020 and already completed.

[35] On July 24, 2020, the KFN Electoral Officer issued notice of by-election to fill the position of Chief. That by-election has been enjoined pending the decision on this judicial review.

IV. Issues

[36] There are two controlling issues:

- Was the Decision procedurally fair?
- If so, was the Decision reasonable?

V. Analysis

A. *Procedural Fairness*

[37] There is no debate that the standard of review of this issue is correctness (*Girouard v Canada (Attorney General)*, 2020 FCA 129 at para 38). The nature and extent of the procedural fairness applicable is dependent on the circumstances and dependent on the factors in *Baker v Canada (Minister of Citizenship and Immigration)*, [1999] 2 SCR 817, including the consequences of a decision on the individual.

A high standard of justice is required when the right to continue in one's profession or employment is at stake. ...

Kane v Board of Governors of UBC, [1980] 1 SCR 1105 at p 1106

[38] The *Election Code* is silent on this aspect of the removal provisions but procedural fairness applies in this situation. In *Sparvier v Cowessess Indian Band*, [1993] 3 FC 142, Justice Rothstein noted at para 47:

While I accept the importance of an autonomous process for electing band governments, in my opinion, minimum standards of natural justice or procedural fairness must be met. I fully recognize that the political movement of Aboriginal People taking more control over their lives should not be quickly interfered with by the courts. However, members of bands are individuals who, in my opinion, are entitled to due process and procedural fairness in procedures of tribunals that affect them. To the extent that this Court has jurisdiction, the principles of natural justice and procedural fairness are to be applied.

[39] There are two aspects to the challenge on procedural fairness – a) the failure to give proper notice and opportunity to be heard; and b) Council's alleged predetermination of the

hearing result. Council itself recognized this notice aspect in the provision of allegations and evidence supporting the July 16 hearing.

[40] The process up to the July 16 hearing and most of the process at that hearing met the standard for procedural fairness. Hall was provided with the particulars of the allegations on June 26, 2020 and with the supporting evidence on July 6, 2020. The scheduling dispute evidenced an intent by the Councillors to rush the process but it alone does not undermine the procedural fairness afforded.

[41] Compliance with procedural fairness norms “went off the rails” when the Councillors took a break during the hearing, met secretly with Ms. Joe, obtained new evidence (the June 19 Hall video presentation of the KFN Update) and then attempted to change the hearing into one of challenging the Chief’s right to make that presentation.

[42] At the commencement of the hearing, the only video in evidence was the drone film footage of reserve lands with commentary. It may be that the Councillors gave Hall the wrong video as part of Council’s evidence but that error does not permit the Councillors to ignore proper notice and fair opportunity to address the issue.

[43] The Respondents have provided no explanation of how they were justified in – to use a colloquial term - “sand bagging” Hall with new allegations and new evidence at the hearing.

[44] It is no answer to suggest that everyone in the community knew that there was a dispute between the two Councillors and the Chief regarding disclosure of the forensic audit results. Hall was entitled to be confronted with the allegations (substantially one of insubordination) and the evidence they relied on. It is evident from the history of this case that Hall had a defence, an argument on his authority versus that of the Councillors, and a position deserving of a proper hearing.

[45] Pursuing Hall right after the hearing with a multi-question letter and demanding an almost immediate response exhibits arbitrariness and high handedness.

[46] The Respondents' conduct of the hearing and the post-hearing pursuit do not accord with procedural fairness. On this ground alone this judicial review should be granted.

[47] The issue of whether the Respondents had predetermined the result is more complex and nuanced. While the process of termination has levels of procedural fairness and is quasi judicial in some aspects, the ultimate power to terminate – assuming the preconditions to the exercise of the power exist – is political. It requires only a BCR at a meeting at which the Chief cannot vote. In that regard, it is akin to an impeachment process.

[48] Given the nature of a small community, a small council structure and the personal interplay within a small community, one cannot expect the objectivity and unbiased nature of a court. It is not always procedurally unfair for Councillors to have an opinion on a matter such as

this so long as they remain open to having their minds changed and approach the issues in good faith.

[49] The Applicant has not made a bad faith submission. The Respondents potentially have an argument that they wanted to keep the audit results under wrap until they had determined what to do. There is little credible evidence that they were doing so but that issue need not be decided now.

[50] The Respondents fail on the first aspect of procedural fairness – notice and opportunity to be heard.

B. *Decision – Reasonableness*

[51] The parties agree and I find that the standard of review in respect of the merits of the decision is reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65).

[52] Part of the dispute between the Chief and the Councillors is the view held by the Councillors that they can dictate to the Chief, individually or collectively, outside of a Chief and Council meeting and the BCR process, what he should do and how he should carry out his functions.

[53] From that perspective they, both alone and together, spoke to and wrote to the Chief on a number of contentious issues but particularly with respect to disclosure of the forensic audit results.

[54] The Councillors' view of their powers does not take due account of the specific responsibilities given to the Chief under sections 2.5 and 2.6 of the *Election Code*.

- 2.5 The Chief will carry out the business of KFN following the guidelines stated in the Vision Statement "Creating an environment that permits a higher quality of life for membership of KFN. Being committed to Transparency, Social Development, Financial Accountability, Responsibility, Economic Development and Health.
- 2.6 The Chief is the spokesperson for KFN at all functions both within and beyond the Community including public speaking, media interviews and other events. In the event the Chief is unable to fulfill these duties, he/she shall delegate a Member of Council or a Member of the Administrative staff to fulfill the Chief's obligations.

[55] There is nothing in the *Band Council Mandate* of the *Election Code* that speaks to that kind of control over the Chief.

The general responsibilities of Council include the following:

- (a) To foster progress in the economic development, education, social and recreational life of the KFN community.
- (b) To encourage, promote, and enable KFN customs and traditions.
- (c) To uphold the Aboriginal rights of KFN including KFN's inherent right to self-government.
- (d) To develop policies, procedures, laws and bylaws, as required, to adequately govern the KFN community, and to become familiar with the existing policies, procedures,

laws, bylaws and other powers of Council, and to use those for the betterment of the KFN community.

- (e) To cooperate and liaise with the Members of KFN in order to advocate to all levels of Government in matters relating to the interests of the KFN.
- (f) To encourage community participation in Governance issues.
- (g) To ensure that the needs of Members are met, including but not limited to social and education needs, through committed leadership and the efficient administration of programs and services within KFN jurisdiction, including the administration of all budgets and financial transactions
- (h) To represent the KFN community at functions that extend beyond the community, including public speaking, media interviews and other events.

...

[56] At no time did the Councillors pass a BCR directing the Chief to do or refrain from doing anything, much less directing the Chief to keep the forensic audit results confidential from the community. The potential community ramifications of such a BCR directing that important information not be disclosed are easy to contemplate.

[57] In the Decision, the Councillors purportedly found Hall's conduct contrary to s 7.3 of the *Election Code*. That provision contemplates events of gross misconduct, corrupt practices in connection with Council business, illegal or improper appropriation of KFN funds, corrupt election practices and "does not actively and clearly participate in fulfilling Council's mandated activities, as described in Section 3" – a specific subset of conduct relied upon.

[58] It is unreasonable to conclude on these facts that Hall committed any of these acts. There are no details given in respect of not participating in fulfilling Council's mandated activities.

[59] Council relied on principles taken from the KFN Governance Policy Manual. That Manual has no force of law as it has not been ratified by the community. It cannot form the basis of a termination. It was an error to include this irrelevant consideration in its Decision.

[60] Absent a BCR, it was unreasonable to conclude that the Chief did not have at least a role as the spokesperson for the First Nation in determining what disclosure should have been made of the forensic audit results. The Councillors have not established that the KFN Update was confidential or that the Chief was lawfully ordered to keep it confidential.

[61] The lengths to which the Councillors were prepared to go to find some basis to terminate the Chief is evident in its finding of a "conflict of interest". The personal relationship between Hall and Sidhu was known and accepted. The complaint against Hall is that he sent emails received from governments to Sidhu on May 25, 2020, when he knew that Council (after he recused himself) had resolved to terminate her.

[62] However, the emails contain no particularly sensitive information, appear to have been misdirected and were simply forwarded to Sidhu in her capacity as CAO – the office where such correspondence would normally reside.

[63] A finding of conflict of interest in these circumstances is unreasonable. Neither Hall nor Sidhu gained anything nor was KFN deprived of any benefit. The so-called conflict is not identified.

[64] The Applicant also argues that he was subject to “double punishment” having been punished by suspension for the same conduct punished by termination. The grounds for suspension are largely the same as for termination (except for the forensic audit presentation video).

[65] Hall had served the suspension by the time he was terminated. The argument of double punishment is in reality a plea that the Councillors were *functus officio*. The attempt to rescind the suspension in order to proceed with termination was a tacit admission that they were *functus* and not a proper exercise of progressive discipline. The Councillors could only be saved from the *functus* issue by virtue of raising the matter of the disclosure of the forensic audit. That issue has already been found to be unfairly raised.

[66] Lastly, the use of the termination remedy is disproportionately harsh and is unreasonable. Termination of Hall in these circumstances was unfair to him and to the community that elected him. In attacking Hall, the Councillors were not protecting the community from an individual engaged in corrupt practices. They were attacking a Chief who had a different view from theirs of what was in the best interests of the community.

[67] Therefore, the Court concludes that the Decision was unreasonable.

VI. Remedy

[68] The Decision must be quashed. There is no point referring the matter back to the Councillors – that would be a matter of form over substance.

[69] Part of the problem in terms of remedy is the KFN's governance structure and lack of clarity as to the roles and responsibilities of the actors in this piece. The resolution of the problems rest with the community – with or without outside assistance.

[70] Therefore, the Decision will be quashed, and Hall is to be reinstated to his position as Chief. Hall is entitled to his costs.

JUDGMENT in T-835-20

THIS COURT'S JUDGMENT is that the decision of July 22, 2020 made by the Kwikwetlem First Nation Councillors George Chaffee and John Peters is quashed, and the Applicant is to be reinstated to his position as Chief. The Applicant is entitled to his costs.

"Michael L. Phelan"

Judge

SCHEDULE A

Kwikwetlem First Nation Custom Election Code (ratified November 27, 2013)

3.0 BAND COUNCIL MANDATE

The general responsibilities of Council include the following:

- (a) To foster progress in the economic development, education, social and recreational life of the KFN community.
- (b) To encourage, promote, and enable KFN customs and traditions.
- (c) To uphold the Aboriginal rights of KFN including KFN's inherent right to self-government.
- (d) To develop policies, procedures, laws and bylaws, as required, to adequately govern the KFN community, and to become familiar with the existing policies, procedures, laws, bylaws and other powers of Council, and to use those for the betterment of the KFN community.
- (e) To cooperate and liaise with the Members of KFN in order to advocate to all levels of Government in matters relating to the interests of the KFN.
- (f) To encourage community participation in Governance issues.
- (g) To ensure that the needs of Members are met, including but not limited to social and education needs, through committed leadership and the efficient administration of programs and services within KFN jurisdiction, including the administration of all budgets and financial transactions.
- (h) To represent the KFN community at functions that extend beyond the community, including public speaking, media interviews and other events.
- (i) Council must call a Minimum of 2 General Band Meetings per year. These meetings shall be held on the First Saturday of April and the First Saturday of October for each year. Notice of such Band Meetings being sent to all Band Members. Council must provide a full report of all issues relating to this code to the Membership at these General Band Meetings.
- (j) Should there be extraordinary circumstances, meaning illness, death of an immediate member of the family or death of a member of KFN. Such meeting will be postponed and rescheduled pursuant to the Policy and Procedures adhered to for all Band Office Staff.

4.0 ELIGIBILITY CRITERIA FOR OFFICE

- 4.1 To hold the position of Chief or Councillor of KFN, a person must:
- (a) Be a Member of KFN for the twelve (12) months prior to nomination;
 - (b) Be at least 18 years of age as of the date of the Election;
 - (c) Holds Canadian Citizenship;
 - (d) Have been nominated and seconded by Members who are Eligible Voters;
 - (e) Not be convicted of an offence within a five (5) year period of the date of the Election, unless waived by a majority vote of Eligible Voters at a General Meeting of Members;
 - (f) Not be convicted of an offence involving fraud within five (5) years of the date of the Election;
 - (g) Not be convicted for any sexual assault offences within ten (10) years of the date of the Election;
 - (h) Not be in Arrears on payment of a debt to KFN or to a company that KFN has an interest in;
 - (i) Not be in a state of bankruptcy at the time of nomination or during an elected term, and;
 - (j) Sign the *Chief/Councillor Qualification Certificate* in the form of Appendix 4 and make public disclosure of debts owed to KFN.
 - (k) Sign the Acceptance of Nomination in the form of Appendix 1
 - (l) Sign the Authorization for Criminal Record Check in the form of Appendix 2
- 4.2 Unless otherwise brought to his or her attention, the Electoral Officer shall assume that an individual who has signed a *Chief/Councillor Qualification Certification* meets all the qualifications of being a candidate in accordance with this code.
- 4.3 If the Electoral Officer feels it is warranted he/she may conduct a Criminal Records Search in Canada and the U.S.A. to confirm candidates' eligibility.
- 4.4 The Electoral Officer shall disqualify a candidate if it is found that he or she was not eligible to be a candidate in accordance with this code or the Candidate does not submit the required forms by the required date.

- 4.5 In the event a Candidate is nominated for both Chief and Councillor, he/she must withdraw from one of the positions no later than 37 days prior to the election.

...

7.0 COUNCIL VACANCIES

- 7.1 A Council position becomes vacant when the person who holds that office:
- (a) Resigns;
 - (b) Loses eligibility status as set out in section 4 of this Election Code;
 - (c) Is convicted of an Indictable Offence;
 - (d) Becomes incapacitated to the point where he or she cannot perform the required duties and such incapacity is confirmed by a declaration signed by a medical doctor qualified to practice medicine in British Columbia;
 - (e) Fails to swear the oath required by Section 25.3;
 - (f) Dies.
- 7.2 A Council position also becomes vacant when the Appeal Board, pursuant to section 27, upholds an appeal and sets aside the election for that position.
- 7.3 The Chief or any Councillor may be removed from office if two Councillors vote in favor of a resolution declaring that the Chief or Councillor be removed from office on grounds that the Chief or Councillor:
- (a) Was guilty of Gross Misconduct or Corrupt Practice in connection with Council business;
 - (b) Has committed illegal or improper appropriation of KFN funds;
 - (c) Has been found guilty of Corrupt Election Practices;
 - (d) The information declared in the *Chief/Councillor Qualification Certificate* (Appendix 4) was untrue;
 - (e) Does not actively and clearly participate in fulfilling Council's mandated activities, as described in Section 3;
 - (f) Does not actively participate in any committee established by Council that is directly connected to the Councillor's portfolio or;

- (g) Misses more than three (3) consecutive Council meetings within a 12-month period, without Council approval, as recorded in Council meeting minutes.

...

Kwikwetlem First Nation Chief and Council Code of Ethics (Approved by Council but not ratified)

BREACH OF ETHICS

Failure of the members of the Kwikwetlem First Nation Chief and Council to abide by the Code of Ethics Policy shall be viewed as a breach of appropriate ethics and as such, subject to discipline. Such discipline, as administered by the Kwikwetlem First Nation Chief and Council may be in the form of a verbal warning, formal letter of reprimand, suspension with or without Kwikwetlem First Nation Chief and Council member honorarium, involuntary termination from their elected position, or the request for resignation.

The majority of Kwikwetlem First Nation Chief and Council shall determine the level of discipline, except in the case of suspension, involuntary termination and the request for resignation, in which case the unanimous decision of Kwikwetlem First Nation Chief and Council shall be required.

Just cause for discipline shall include, but not limited to the following:

- => General and personal conduct within the Kwikwetlem First Nation community and outside the community (i.e. obscene language, fighting, excessive use of alcohol and the use of drugs)
- => Failure of attendance and participation at meetings
- => Dishonesty (i.e.: Theft, and the intentional disclosure of false information)
- => Insubordination (refusal to follow the direction of Kwikwetlem First Nation Chief and Council)
- => Persona and sexual harassment of employees, Kwikwetlem First Nation Members or any other persons.
- => Disclosure of confidential information
- => Conviction of an indictable offence just cause for immediate termination)

The process of discipline shall, where the Kwikwetlem First Nation Chief and Council consider it to be appropriate, be progressive in nature and always administered in a fair and reasonable manner.

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-835-20

STYLE OF CAUSE: CHIEF EDWARD HALL v GEORGE CHAFFEE AND JOHN PETERS (IN THEIR CAPACITY AS COUNCILLORS OF THE KWIKWETLEM FIRST NATION)

PLACE OF HEARING: VANCOUVER, BRITISH COLUMBIA

DATE OF HEARING: SEPTEMBER 15 AND 16, 2020

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DATED: OCTOBER 22, 2020

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