

Date: 20080529

Docket: A-423-07

Citation: 2008 FCA 195

**CORAM: LINDEN J.A.
NADON J.A.
SEXTON J.A.**

BETWEEN:

WAHTA MOHAWKS

Appellant

and

KAREN COMMANDANT

Respondent

Heard at Toronto, Ontario, on May 29, 2008.

Judgment delivered from the Bench at Toronto, Ontario, on May 29, 2008.

REASONS FOR JUDGMENT OF THE COURT BY:

LINDEN J.A.

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REASONS FOR JUDGMENT OF THE COURT
(Delivered from the Bench at Toronto, Ontario, May 29, 2008)

LINDEN J.A.

[1] In our view, the Applications Judge correctly decided that the appellant was in good standing financially in her relations with the Band and in the way he treated that issue referring it back to the Council with directions.

[2] However, in sending the matter back with instructions to treat the appellant as a full-time student, he erred in that there was conflicting evidence on this issue, a factual matter which should be properly decided by the Council.

[3] The matter concerning full-time studies, therefore, should be remitted to the Council to be determined within 30 days hereof and, to avoid any apprehension of bias, the Chief of the Band must not take part in this determination.

[4] In the circumstances of divided success, no costs.

“A.M. Linden”

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-423-07

(AN APPEAL FROM THE ORDER OF THE HONOURABLE MR. MAX M. TEITELBAUM, DATED JULY 4, 2007, AS PER FEDERAL COURT FILE DOCKET NO. T-806-06.)

STYLE OF CAUSE: WAHTA MOHAWKS v. KAREN
COMMANDANT

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: MAY 29, 2008

**REASONS FOR JUDGMENT OF
THE COURT BY:** (LINDEN, NADON & SEXTON
JJ.A.)

**DELIVERED FROM THE
BENCH BY:** LINDEN J.A.

DATED: MAY 29, 2008

APPEARANCES:

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STEVE NICOLETTA FOR THE RESPONDENT

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