

Order No. 134

File No. 03-0006-01

*Metis Settlements Act*

**METIS SETTLEMENTS APPEAL TRIBUNAL**

Between:

**William Campbell**

Appellant

and

**Peavine Metis Settlement**

Respondent

Concerning a membership dispute

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**DECISION**

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## **The Hearing**

### **Appeal heard by the following members of the Metis Settlements Appeal Tribunal:**

Phyllis Collins, Panel Chair  
Wayne Cardinal, Panel Member  
Don Fleming, Panel Member

### **Parties present at the hearing:**

William Campbell, Appellant  
Clarence Cunningham

Peavine Metis Settlement Council, Respondent

Represented by: Iner Gauchier, Chair  
Raymond Carifelle, Councillor  
Chris Noskey, Councillor  
Melvin Gauchier, Councillor  
Arnold Gauchier, Councillor

Peavine Metis Settlement Staff  
Dennis Cunningham, Administrator  
Don Cunningham, Land & Membership Coordinator  
Charlotte Cunningham, Land & Membership Assistant

Madeline Gauchier, Elder

### **MSAT staff present:**

Floyd Flett, Cree Interpreter  
Terri Quintal, Research and Development Officer

### **Place and date of the Hearing:**

Seniors' Room, Community Services Building,  
Peavine Metis Settlement, Alberta  
November 28, 2001

## Background

On January 31, 2000, Mr. William Campbell applied for membership in the Peavine Metis Settlement. The Tribunal was informed by the Settlement that Mr. Campbell did not submit the required paperwork until March 22, 2000.

On May 15, 2000, William appealed to MSAT on the grounds that Peavine Council had not made a decision regarding his application. On August 7, 2000 during a Special Council Meeting, motion 00:08:07:04 was passed which deferred Mr. Campbell's membership application due to lack of suitable housing. On September 6, 2000, the investigating officer handling the case wrote Mr. Campbell a letter stating that a decision had been made on his application and that his file with MSAT would be closed.

The Peavine Metis Settlement Council made a decision on Mr. Campbell's membership on August 7, 2000, 137 days after the application was received. According to section 77(1) of the *Metis Settlements Act*, Council is to decide within 90 days of receiving the application. Peavine Settlement Council was 27 days late in reviewing Mr. Campbell's application for membership.

Mr. Campbell indicated on his application for membership that he would like to meet with Council to discuss his application before Council decided on the matter. Mr. Campbell claimed that he was not informed about the Council meeting nor was he given an opportunity to provide evidence in regards to application. The Peavine Metis Settlement did not submit any documentation that would indicate that William was notified of the meeting.

MSAT received Mr. Campbell's second appeal letter regarding the deferral of his application for membership on August 24, 2001.

On October 19, 2001, a Case Management Panel of the Tribunal met and decided to waive the 45-day appeal period. Section 202 of the *Metis Settlements Act* states

When a matter before the Appeal Tribunal is, by this Act or any other enactment or by any rule or decision of the Tribunal, required to be done within a specified time and if the circumstances of the case in its opinion so require, the Tribunal may, with or without notice, extend the time so specified or waive the requirement whether or not the time has expired.

## Jurisdiction

The Tribunal has jurisdiction to hear this appeal according to section 83(1) of the *Metis Settlements Act*, which states:

83(1) If a settlement council refuses or defers an application for membership, or an application is not considered or a decision is not made by the settlement council within the required time, the applicant may appeal in writing to the Appeal Tribunal

(a) within 45 days after receiving notice of refusal or deferral, or

## **Evidence**

### **William Campbell's Evidence**

William Campbell made the following points through Floyd Flett, the Cree interpreter:

- Mr. Campbell would like membership because he knows lots of people in Peavine.
- Mr. Campbell helped build houses in Peavine in the 1950s.
- Everyone in the area was poor in the 1950s and they all helped each other out.
- People just fight policies and amongst themselves these days.
- Both of Mr. Campbell's parents were members in Gift Lake Metis Settlement.
- Mr. Campbell grew up hunting and logging with people from Peavine.
- Mr. Campbell can hunt without being charged.
- Mr. Campbell grew up with people from Peavine.
- Mr. Campbell wants to live as a Metis.
- Mr. Campbell has lived in the Peavine area for quite some time.
- Mr. Campbell would move his trailer at his own expense to Clarence Cunningham's land if he were granted membership.
- Mr. Campbell did not understand the application for membership, he asked Jolene Mearon to fill it out for him.
- Mr. Campbell does not understand the English language that well.

### **Peavine Metis Settlement's Evidence**

Iner Gauchier, Council Chair:

- The decision to defer Mr. Campbell's membership was made based on the information he wrote on the application form.
- Mr. Campbell wrote that he has no place to live on the application form.
- Council did not know that he was willing to move his trailer at his own expense.
- Peavine Metis Settlement has a two-year probation period for new members.

Raymond Carifelle, Counillor:

- Mr. Campbell should re-apply for membership because Council did not know that he had a trailer that he would move to Peavine.
- Mr. Campbell would have to wait for two years before the Settlement would provide him with any services.

**Dennis Cunningham, Settlement Administrator:**

- Mr. Campbell applied for membership in the Gift Lake Settlement.
- Mr. Campbell was informed about the membership meeting.
- Mr. Campbell did not inform Council that he was willing to move his trailer to the Settlement.
- The waiting list for membership is continuous.
- The waiting list for membership always exists.
- Mr. Campbell's name would not be on the list because his membership application was dealt with.
- There is a bylaw that prohibits non-members from purchasing homes on Settlement land.

**Don Cunningham, Land and Membership Coordinator:**

- Gift Lake sent William Campbell a letter regarding his application for membership in that Settlement.\*
- Gift Lake wanted William Campbell to clarify that Campbell was his last name.\*
- Gift Lake had a shortage of housing when William applied for membership.\*
- Martin Thompson, a former Metis Settlements Appeal Tribunal employee, sent Mr. Campbell a letter; the letter was explained to William in Cree.
- On the application for membership William wrote that he had no place to live.
- William did not write that he would move his trailer.
- When an application for membership is deferred the status of the individual is usually not checked.
- A status check was done for William Campbell but it has not come back yet.
- A status check can take up to six months.
- Sometimes applications are reactivated if the individual who applied is still interested in obtaining membership.
- Mr. Campbell's membership was deferred not denied.
- The probationary period starts the day that Land Registry receives the forms.

**Madeline Gauchier, Settlement Elder:**

- Mr. William Campbell was a carpenter in Grouard years ago.
- Peavine Metis Settlement does not have the right facilities for looking after seniors.
- Mr. Campbell wants membership because he is after the money.
- Nobody can have the land with gravel and oil that is the Settlement's gold.

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\* Evidence package submitted by Don Cunningham at the hearing

- It is hard for a senior to live in Peavine.
- Teenagers belong in Peavine.
- William was not born in Peavine.
- People want to come to Peavine for the money.
- People are going to fight the Settlement and the Settlement is going to fight back.

### **Findings of Fact**

- Mr. Campbell applied for membership in the Peavine Metis Settlement on January 31, 2000, however the proper paperwork was not complete until March 22, 2000.
- On May 15, 2000, Mr. Campbell sent an appeal letter to the Metis Settlements Appeal Tribunal because Peavine Settlement Council had not made a decision regarding his application for membership.
- The Peavine Metis Settlement Council deferred Mr. Campbell's application for membership due to a lack of suitable living accommodations on August 7, 2000.
- Mr. Martin Thompson, a Tribunal employee at the time, sent Mr. Campbell a letter on September 6, 2000, informing William that Council had deferred his application for membership and that his file with MSAT would be closed.
- The Tribunal received Mr. Campbell's second appeal letter on August 24, 2001.
- Mr. Campbell had not indicated, on the application for membership, that he was willing to move his trailer to the Settlement.
- Mr. Campbell owns a trailer and is willing to move it at his own expense.
- Mr. Campbell did not attend the meeting where Council decided on his application for membership.

### **Decision**

The Panel decided that Peavine Metis Settlement Council should re-consider Mr. William Campbell's application for membership.

### **Reasons**

Council should reconsider the application for membership made by William Campbell because William was not given an opportunity to present his case in front of Council as set out in section 79(1)(b) of the Metis Settlements Act. Section 79(1)(b) of the *Metis Settlements Act* reads as follows,

79(1) Before a settlement council makes a decision on a membership application it must

...

(b) give the applicant a hearing if the applicant requests it.

### Recommendations

The Panel has also chosen to make recommendations as per section 190(1)(m) of the *Metis Settlements Act*, which states

190(1) The Appeal Tribunal may, in respect of any matter before it,

...

(m) refer a matter back to the settlement council, with or without suggestions or recommendations;

The Panel strongly recommends that the Peavine Metis Settlement Council pass a bylaw to establish a proper waiting list for membership applications that have been deferred. The waiting list should be set out in a fair and equitable manner as set out in section 79(4) of the *Metis Settlements Act*.

### Order

The Tribunal orders that:

- Peavine Metis Settlement Council re-consider Mr. William Campbell's application for membership because the proper process, as set out in the *Metis Settlements Act*, was not followed.
- Peavine Metis Settlement Council consider and decide on Mr. William Campbell's application for membership within 45-days from the date of this decision.
- The Peavine Metis Settlement inform the Tribunal of their decision regarding Mr. Campbell's membership application.
- In the event that Mr. Campbell does not agree with the decision of the Peavine Metis Settlement Council, he can appeal Council's decision to the Tribunal within 45 days from the date that the decision was made or should have been made.

Dated this 7<sup>th</sup> day of February, 2002.

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Phyllis Collins  
Panel Chair