

Ontario Labour Relations Board

The Ontario Labour Relations Board (OLRB) is an independent, quasi-judicial tribunal which mediates and adjudicates a variety of employment and labour relations related matters under various Ontario statutes.

**Annual Report
2014-2015**

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Chair's Message

It is hard for me to believe but this is the fifth message I have been privileged to write for the Board's Annual Report since being appointed Chair. It is not clear to me whether that is proof of the old adage that time flies when you're having a good time, or conversely, this should be becoming easier by now.

So 2014-2015 was another busy year for the Board. About 3,800 new cases were filed last year (about 200 more than the year before, reversing the slight declining trend over the past few years).

As increasing new jurisdiction is conferred on the Board, that trend may continue – even more sharply. Just by way of example, the School Boards Collective Bargaining Act imposes a new regime on educational sector bargaining. There are now two tiers of bargaining – central bargaining for the first time together with local bargaining. Disputes over whether issues should properly be dealt with at central or local bargaining (or whether they affect constitutionally protected denominational or language rights) may now be referred to the Board. Seven of the first of these applications have now been filed and four disposed of: two were by final decision following a hearing and two were resolved without a hearing - one having been withdrawn). Hearings were scheduled in the remaining three. No one expects bargaining in the educational sector to be easy this round, and with the Board retaining residual jurisdiction in the event that further disputes arise about the central/local split, the expectation of more cases emerging from school board bargaining does not seem unreasonable.

Equally, Bill 18 passed last fall, which significantly increased the remedial scope of possible orders under the Employment Standards Act, and it would not be unreasonable to expect that ESA appeals could, as a result, also very well be on the rise.

More than 4,400 cases were closed in the last fiscal year (the discrepancy between that number and the number of new cases filed is explained by cases remaining which were filed before this fiscal year as well as the Board's new case management system which tracked this somewhat differently) – the most in approximately the last 10 years. In fact, from opening to closing, more than half all Board cases are disposed of in under 127 calendar days (or about 4 calendar months) and more than 60% in under 169 calendar days (under 6 calendar months) – although that rate drops off in unfair labour practice cases, it rises to much higher levels in health and safety complaints and construction industry grievances. The details are outlined in this report. However, I wish to be cautious and not draw too many conclusions because these statistics are compiled for the first time with a new case management system introduced in July 2014 in combination with the former system in place for one-third of this fiscal period.

In terms of the types of cases the Board hears, the Board received almost 632 applications for certification (lower by almost 70 – or about 10% less than the year before). More than half were in the construction industry – 337 vs. 295.

Interestingly enough, approximately 532 applications for certification were granted out of 907 disposed of during this fiscal period. Before anyone mistakenly assumes that workplaces across the Province are bursting out in choruses of "Solidarity Forever", there were 375 that were not granted including those either settled, withdrawn, terminated or abandoned. That is a disparity of 532 to approximately 375 – so that it appears there was a union success rate of almost 59% in applications for certification filed. I do not wish to overstate this statistic, but it appears that unions are increasingly more prudent and selective in those applications that they make and pursue.

In other types of cases, there are rather interesting observations. The recent drop in volume of applications of alleged complaints of contraventions of the Labour Relations Act (section 96 cases) continues, by another 27 applications (approximately 5% – even with this year’s statistics grouping of illegal strike/lock-out applications together with unfair labour practice applications), to what appears to be the lowest level in approximately 5 years. We are not yet sure of the significance of that decrease: fewer violations, (we say hopefully), more private resolution or more disconcertedly, perhaps less faith in the ability of the Board to effectively and expeditiously resolve these complaints – and I cannot help but observe that only 16 were granted and 95 were dismissed. (Almost 400 were withdrawn, terminated, settled or abandoned so 80% were resolved without a hearing.) But it is too large a change not to observe and study.

Jurisdictional disputes which peaked four years ago (at about 115 filed), notwithstanding the constant complaints about them in the community (and which had been continuing to decline – only 52 were filed in 2013-2014, so they were less than half of what they were then and the lowest they had been since 2007 2008), climbed to 75 last year – an increase of almost 44%. However, to put that in perspective, although overwhelmingly, not all of them were in the construction industry. There was a slight increase (less than 1%) in construction industry grievance referrals (so that they are the highest they have been in the last five years) – at 996, although there were 1,048 six years ago in the 2009 2010 fiscal period. Also, for the first time in the last number of years, there was a significant increase in employment standards appeals – more than 30%, or 97 – but still significantly less than when they peaked at 1,351 in the 2010 2011 fiscal year after the Employment Standards Branch had undertaken a serious campaign to eliminate its backlog. Again, that may simply be the fulfilling of the observation I made earlier – with the passing of Bill 18, that number may continue to rise. Also, the recent small drop off in occupational health and safety complaints in 2013 2014 (for

the first time in 5 years) appears to have levelled off with a slight increase last year. They are still at the highest level they have been in six years, with the exception of 2012 2013. Part of that is due to the recently enacted ability of inspectors to refer reprisal complaints directly to the Board. There was also more than a 10% increase in OHSA appeals, so they are back at levels last seen in 2010 2011.

In the last Report, I had expressed concern about how the Board was faring in the courts. In 2013 2014, applications for judicial review were granted with respect to 4 Board decisions (11 were dismissed and 7 were abandoned). Although some may argue that is still a credible rate of success, in the prior year, no Board decisions were successfully judicially reviewed (while 16 were dismissed and 4 cases abandoned). It was not clear whether this represented an atypical year for the Board and the courts, or was a prognosis of a more interventionist court in the post Dunsmuir world of judicial review (with only a “reasonableness” standard).

Perhaps the answer is now made clearer by examining the Board’s court activity in 2014 2015. Sixteen new applications for judicial review seeking to overturn Board decisions were filed – and 17 disposed of in that same period. Two were dismissed on their merits and the other 15 were either abandoned or deemed to be abandoned. The Court of Appeal heard 2 appeals from previous Divisional Court decisions which had quashed the Board’s decisions. Both appeals were successful and the Board’s rulings restored (Terceira and Sheet Metal Workers (EllisDon)). In my view (albeit arguably somewhat self serving), this reflects a truer and more appropriate balance between the Board and the courts.

The Board has previously reported about the changes it made with respect to the triennial construction season “open period” which concluded on April 30, 2013. As of the writing of this message, of the 202 files opened in that 3-month period,

112 displacement applications for certification and 90 termination of bargaining rights applications, only 4 presently remain open (one which is awaiting the release of a decision and the others which are scheduled for fixed continuation hearing dates) – so about 98% have been disposed of – a far better closure rate than the previous open period. Most importantly, more than 80% of termination applications and almost 75% of displacement certifications were resolved by, or at, the expedited hearing date. Administratively, it appears that the changes were an unqualified success.

The Board held an open “Town Hall Meeting” for both stakeholders and counsel on November 25, 2014 at the Board’s offices in Toronto to hear both comments about these procedures and “open period” experiences, both good and bad. The consensus of those attending appeared to be, whatever the merits of the changes – “Don’t change them again, now that we finally got used to them.” Needless to say, with the 2016 open period rapidly approaching, the Board will soon notify the community to what extent those 2013 changes will be made permanent or will be altered. The Board is also examining where its other processes can be “tweaked” or improved to expedite their processing – particularly with respect to joint employer applications under sections 69 or 1(4) of the Act. As well, notwithstanding the success of the Board’s changes with respect to construction industry certifications and the adoption of a case management system with respect to them in January 2012, the Board is still looking at further fine tuning the process to make it work even better.

Virtually 85% of all cases filed at the Board are settled without a hearing (and in some types of cases, the percentage is even higher – e.g., construction industry grievance referrals). All of this could not be achieved without the too often unheralded and extraordinarily effective efforts of the Board’s complement of Mediators.

In its continuing effort to search out and appoint adjudicators of the highest caliber (at least in my unquestionably objective view), the Board welcomed Michael McFadden as a Vice Chair, a well known and highly-regarded management labour lawyer who added to the construction expertise of the Board. As well, to increase the use of tri partite panels and reinvigorate what some may have observed to be a diminishing role of tri-partism at the Board, the Board has appointed a large number of part time members from the employer and employee communities – Lori Bolton, William Cook, Robert Lechien, David St. Louis, John Sullens and Ron Martin. We hope to have more appointed soon, thus enabling the Board to schedule more tri-partite panels and tri-partite panels with a broader and greater richness of diversity and expertise.

Of course, in today’s competitive marketplace, the opposite is equally true and the Board always has difficulty in retaining its highly regarded and skilled adjudicators. Last year, after many years of exemplary service and contributions, Lyle Kanee resigned from the Board as did long time employer member John Schel. They will be missed.

Most importantly, as well, 2014 marked the retirement of the Board’s long serving Director and Registrar, Peter Gallus. Having served the Board in many capacities for a lengthy period of time, Peter came to represent the consummate civil servant – hard working, diligent, fair minded and unfailingly courteous and respectful. As difficult as it is to fill the big shoes that Peter left behind, Catherine Gilbert has admirably filled his role as Director/Registrar (and equally admirably, Ursula Boylan, Catherine’s successor as Deputy Director/Registrar).

It would be both inexcusable, to say nothing of grossly negligent of me, to conclude this annual message without once again observing the expertise and dedication of the staff at the Board. With each passing year as Chair, I have come to even more admire and appreciate their efforts. In my humble view, this team

of knowledgeable and discerning adjudicators, ably supported by this dedicated, hard working staff, continues to ensure that the Board maintains its reputation as Canada's largest and preeminent labour and employment tribunal.

As we continue to work diligently to make improvements so that the Board can be even better at what it does, as I have said before, I encourage everyone to contact the Board (and me) with their comments, concerns or suggestions. I cannot promise that we will agree, but we will certainly listen.



A handwritten signature in black ink, appearing to read 'Bernard Fishbein', written in a cursive style.

Bernard Fishbein
Chair - Ontario Labour Relations Board

Organizational Overview

The Ontario Labour Relations Board is an adjudicative agency of the Government of Ontario. As a tribunal operating at arm's length from the Ministry of Labour, the OLRB mediates and decides cases under more than 20 different workplace and employment-related laws. In addition to the primary responsibility that comes from its founding statute, the Labour Relations Act, 1995, a significant portion of the Board's work falls under the Employment Standards Act, 2000 and the Occupational Health and Safety Act, as is described in more detail below.

Overall, the Board has varying degrees of jurisdiction assigned to it under the following statutes:

- *Ambulance Services Collective Bargaining Act*, 2001, S.O. 2001, c.10
- *Colleges Collective Bargaining Act*, 2008 S.O. 1990. c.5
- *Crown Employees Collective Bargaining Act*, 1993, S.O. 1993, c.38
- *Education Act*, R.S.O. 1990, c.E.2
- *Employment Protection for Foreign Nationals Act*, 2009, S.O. 2009, c.32
- *Employment Standards Act*, 2000, S.O. 2000, c.41
- *Environmental Bill of Rights*, 1993, S.O. 1993, c.28
- *Environmental Protection Act*, R.S.O. 1990, c.E.19, which gives the Board jurisdiction under the following legislation:
 - *Environmental Assessment Act*, R.S.O. 1990, c.E.18
 - *Environmental Protection Act*, R.S.O. 1990, c.E.19
 - *Ontario Water Resources Act*, R.S.O. 1990, c.O.40
 - *Pesticides Act*, R.S.O. 1990, c.P.11
 - *Fisheries Act*, R.S.C. 1985, c.F-14
 - *Nutrient Management Act*, 2002, S.O. 2002, c. 4
 - *Safe Drinking Water Act*, 2002, S.O. 2002, c.32
 - *Toxics Reduction Act*, 2009, S.O. 2009, c.19
- *Fire Protection and Prevention Act*, 1997, S.O. 1997, c.4
- *Hospital Labour Disputes Arbitration Act*, R.S.O. 1990, c.H.14
- *Labour Relations Act*, 1995, S.O. 1995, c.1
- *Local Health System Integration Act*, 2006, S.O. 2006, c.4
- *Long Term Care Homes Act*, 2007, S.O. 2007, c.8
- *Occupational Health and Safety Act*, R.S.O. 1990, c.O.1
- *Ontario Provincial Police Collective Bargaining Act*, 2006, S.O. 2006, c.35, Sch. B
- *Protecting Child Performers Act*, 2015, S.O. 2015, c.2 (comes into force February 5, 2016)
- *Public Inquiries Act*, 2009, S.O. 2009, c. 33, Sch. 6
- *Public Sector Dispute Resolution Act*, 1997, S.O. 1997, c.21, Schedule A
- *Public Sector Labour Relations Transition Act*, 1997, S.O. 1997, c. 21, Schedule B
- *Public Service of Ontario Act*, 2006, S.O. 2006, c.35, Schedule A
- *Retirement Homes Act*, 2010, S.O. 2010, c.11
- *School Boards Collective Bargaining Act*, 2014, S.O. 2014, c.5
- *Smoke-Free Ontario Act*, S.O. 1994, c.10

The Board is an independent adjudicative tribunal with a mandate to mediate and adjudicate a broad variety of workplace disputes. Its staff are appointed under the Public Service of Ontario Act, 2006. Direction for its mission, mandate, service standards, governance and accountability are set out in the Adjudicative Tribunal Accountability, Governance and Appointments Act, 2009.

The Board is composed of a Chair, an Alternate Chair, Vice-Chairs, Board Members, a complement of labour mediators, a Solicitors' Office and a Registrar's office. These individuals, aided by the Board's support staff, draw upon specialized expertise in the labour and employment field to settle and adjudicate cases before them. The Board strives to keep its procedures informal, expeditious and fair. However, it is important to recognize that legal rights are at issue, the statutory frameworks are sometimes complex, and parties are encouraged to seek independent legal advice, if not legal representation, to assist them in Board proceedings.

The Board is entitled to determine its own practices and procedures, and has the authority to make rules and forms governing its practices and the conduct of those appearing before it. The Board's Rules, Forms and Information Bulletins are available on its website at www.olrb.gov.on.ca or from the Board's offices at 505 University Avenue, 2nd Floor, Toronto, Ontario, M5G 2P1.

The Board plays a fundamental role in the labour relations, employment standards, and health and safety regimes in Ontario. Board decisions are based on the evidence presented and submissions received, and on the adjudicator's interpretation of the facts in dispute, relevant legislation and jurisprudence. In keeping with the Ministry of Labour's overarching principles, the Board encourages harmonious relations among employers, employees and trade unions. It deals as expeditiously and fairly as reasonably possible in processing, settling or adjudicating all matters that

come before it.

Labour Relations Act, 1995

The Ontario Labour Relations Board was established by section 2 of the Labour Relations Act, 1948 and is continued by subsection 110(1) of the current Labour Relations Act, 1995.

The Board's work under the LRA is guided by the legislative policy set out in section 2 of the Act:

2. The following are the purposes of the Act:

1. To facilitate collective bargaining between employers and trade unions that are the freely designated representatives of the employees.
2. To recognize the importance of workplace parties adapting to change.
3. To promote flexibility, productivity and employee involvement in the workplace.
4. To encourage communication between employers and employees in the workplace.
5. To recognize the importance of economic growth as the foundation for mutually beneficial relations amongst employers, employees and trade unions.
6. To encourage cooperative participation of employers and trade unions in resolving workplace disputes.
7. To promote the expeditious resolution of workplace disputes.

With this policy as a basis, the Act confers on the Board the authority over many significant aspects of labour relations including the certification of unions to represent employees, termination of bargaining rights, the handling of unfair labour practices (including a union's duty of fair representation or fair referral of its members), successor bargaining rights, essential services, strikes, lock-outs, first contract direction, jurisdictional disputes and a

range of issues arising in the construction industry, including the arbitration of grievances.

Employment Standards Act, 2000

The ESA confers authority on the Board to hear applications for review of decisions made by Employment Standards Officers. Claims filed under the ESA with the Ministry of Labour (for wages, overtime, termination or severance pay, other violations of the Act) are investigated by Employment Standards Officers who direct payment of outstanding monies, issue orders for wages or compensation, or refuse to issue orders. Appeals of Employment Standards Officers' decisions or refusals to make orders are handled by the Board.

Mediation is attempted in all ESA matters before the Board. Where mediation is unsuccessful, the Board conducts what is in essence a fresh hearing of the workplace dispute. Parties to the dispute are expected to attend the hearing with their evidence and witnesses, and be able to persuade the Board of the correctness of their case.

Occupational Health and Safety Act

The OHSA is designed to ensure that every workplace is safe and every worker protected against injury or harm. Enforcement of the OHSA is conducted by health and safety inspectors, who may enter workplaces to inspect or investigate working conditions, equipment and compliance with the Act. Orders or decisions of inspectors can be appealed to the OLRB.

Also, there are protections for workers who exercise their rights under the OHSA and are disciplined or discharged for doing so (reprisals). These applications can be brought directly to the Board or referred by a health and safety inspector.

School Boards Collective Bargaining Act

This new legislation dramatically altered the structure for collective bargaining in the education sector. For the first time, the parties bargain their collective agreement on two tiers: central issues at a “central table”, where the Crown is a party, and local issues at a “local table”, where it is not. In the event the parties are unable to agree to this central/local split, disputes are decided by the Board upon the application of either party or the Crown, as well as any issues arising from the parties’ agreement or Board order. In addition, the Board may be asked to decide whether a matter that is the subject of central bargaining may prejudicially affect constitutionally-protected, denominational or linguistic rights and can exclude the issue from central bargaining, make it the subject of local bargaining and issue other orders as the Board determines are appropriate in the circumstances.

Crown Employees Collective Bargaining Act

Any employer of Crown employees and the bargaining agent for Crown employees must make an essential services agreement when negotiating a collective agreement and prior to any strike or lockout being lawful. Either party may apply to the Ontario Labour Relations Board to determine any matter that is not resolved including the matters to be included in the essential services agreement and its terms. The Board may consult with the parties and/or inquire into any matter raised by the application. The Board also has jurisdiction under this Act to enforce or amend the agreement upon application, as well as to make a declaration that an agreement has prevented meaningful bargaining and to amend the number of positions or employees designated in the agreement.

Other Applications

The Board receives a smaller number of applications under the other legislations that we administer. Generally speaking,

these are treated in a manner analogous to how we deal with the applications already described.

Other Tribunals

The Board also has administrative responsibility for a number of other tribunals whose reporting structures and activities may be described in other Annual Reports. The Board administers the Education Relations Commission (“ERC”) and the Board’s Chair is also the Chair of the ERC; a Vice-Chair of the Board is also Chair of the Pay Equity Hearings Tribunal (an agency of the Ministry of Labour) and several Board Vice-Chairs and Members are also cross-appointed to the PEHT. Support services for all of these bodies are under the administration of the Director/Registrar. Some of the Board’s Vice-Chairs also sit on review panels for the College of Trades and the Board is reimbursed for their time.

Essentially, every application that is filed with the Board is first assigned to a Mediator. The Mediator is given an opportunity to contact or meet with the parties to explore the possibility of settlement. Parties are encouraged to mediate matters. Practically speaking, mediation is a less formal and often less costly process than a hearing. The settlement of a workplace dispute, worked out by the parties with the assistance of a mediator, gives the parties an agreement they can both live with and more responsibility and ownership of the agreed-to conditions. Roughly 85% of all disputes coming before the Board are resolved, including by mediation, prior to litigating the matter at a hearing.

If an application cannot be mediated successfully, the matter is forwarded to the Registrar to schedule a consultation or hearing. A consultation is a less formal type of adjudication, and may take on different forms. Primarily, it is a quick and pointed hearing with the parties, with the Vice-Chair (adjudicator) taking greater control over how the proceeding is conducted. Often, there is no need for sworn testimony. The Vice-Chair may ask questions of the parties, or may direct that the questioning be limited in scope.

A hearing is a formal adjudication, with opening statements, the examination and cross-examination of witnesses, presentation of relevant documentary evidence, and submission of final arguments.

Consultations and hearings (but not mediations) are open to the public unless the Vice-Chair or panel decides that a public airing of the dispute could be damaging to one of the parties. Hearings are not recorded and no transcripts are produced. The Board issues written decisions that are sent to the parties, and become public documents available for searching on public databases.

Order in Council Appointments

The Board's adjudicators (the Chair, Alternate Chair, Vice-Chairs and Board Members) are all appointed by the Lieutenant Governor in Council as Order in Council appointments (OICs), for a fixed term. Following is a chart of OICs working in 2014 – 2015 and the term of their appointment.

Name	First Appointed	Term of Appointment
Members (Employer)		
Bolton, Lori	March 11, 2015	March 10, 2017
Cook, William	March 18, 2015	March 17, 2017
LeMay, R. D. Paul	December 15, 2005	December 14, 2016
O'Connor, Richard J.	November 6, 2002	November 5, 2016
Rundle, Judith A.	July 17, 1986	July 16, 2017
St. Louis, David	February 18, 2015	February 17, 2017
Sullens, John	February 18, 2015	February 17, 2017
Schel, John	June 15, 2010	May 27, 2015
O'Rourke, Roy	June 1, 2011	May 31, 2016
Martin, Ron	March 25, 2015	March 24, 2017
Members (Employee)		
Haward, Alan	March 25, 1998	March 24, 2017
McManus, Shannon R. B.	December 15, 2005	December 14, 2016
Patterson, David A.	April 2, 1986	April 1, 2017
Phillips, Carol	January 14, 2009	January 13, 2017

Name	First Appointed	Term of Appointment
Chair		
Fishbein, Bernard	February 28, 2011	February 27, 2016
Alternate Chair		
McLean, Brian C.	July 8, 1998	September 11, 2015
Full Time VCs		
Freedman, Harry	July 8, 1998	July 7, 2017
Gedalof, Eli	October 30, 2013	October 28, 2016
Kelly, Patrick M.	May 17, 1999	May 17, 2016
Lewis, John D.	March 11, 2009	March 10, 2019
McFadden, Michael	November 5, 2014	November 4, 2016
McGilvery, Roslyn	September 9, 2013	September 8, 2015
McKee, David A.	April 29, 1999	April 29, 2016
McKellar, Mary Anne	January 24, 2001	January 23, 2017
Nyman, Jesse	December 21, 2012	December 20, 2017
Rowan, Caroline	May 6, 1999	May 6, 2016
Serena, Susan J.	May 28, 2003	May 27, 2014
Shouldice, Lee	May 30, 2007	May 29, 2017
Slaughter, Jack J.	February 3, 2003	February 2, 2016
Waddingham, Kelly A.	April 7, 2004	December 31, 2017
Wilson, Matthew	August 29, 2012	August 28, 2017
Part Time VCs		
Albertyn, Christopher J.	October 7 1994	August 30, 2015
Anderson, Ian B.	March 24, 2004	April 7, 2016
Gee, Diane L.	August 1, 2008	July 31, 2016
Gray, Owen	May 8, 2013	September 16, 2017
Green, Maurice	May 16, 2012	July 8, 2017
Hayes, James	June 30 2011	September 30, 2015
Herlich, Bram	May 8, 2013	September 16, 2017
Jesin, Norman	August 25, 2004	August 24, 2015
Johnston, Janice	May 8, 2013	June 6, 2014
Kanee, Lyle	February 25, 2009	January 8, 2015
Kitchen, Robert	May 30, 2012	July 8, 2017
Kuttner, Thomas	September 11, 2013	September 10, 2015
McDermott, Edward T.	May 17 2011	May 16, 2016
Mohamed, Yasmeena	June 6, 2012	June 5, 2014
Petryshen, Kenneth	May 8, 2013	June 6, 2014
Rogers, Derek	August 28, 2013	August 27, 2015
Schmidt, Christine	December 10, 2008	December 9, 2015
Silverman, Marilyn	April 29, 1999	January 31, 2016
Steinberg, Larry	April 18, 2011	April 17, 2016
Wacyk, Tanja	May 28, 2003	September 16, 2016

Board Staff and Key Activities

The OLRB's operations and staff can be broadly divided into: Adjudication (OIC appointments), Administration, Mediation Services and Legal Services. The administrative, mediation and legal staff are public servants appointed under Part III of the Public Service of Ontario Act, 2006.

Office of the Director and Registrar

The Director/Registrar is the chief administrative officer of the Board. She, along with the Deputy Director / Registrar, is responsible for the overall administration of the Board's business: operations, mediation and adjudication. The Director/Registrar, along with the Deputy Director/Registrar, oversees the effective processing and scheduling of each case, communicates with the parties in matters relating to the mediation of cases, scheduling of hearings or on particular issues in the processing of any given case. Every application received by the Board enters the system through the Director/Registrar's office.

Manager of Administration

The Manager of Administration is responsible for the efficient operation of the Board through the effective coordination of the procurement and budget functions, human resources functions, client services, information technology, and the provision of administrative direction for all shared/common services.

Library Services

Comprised of the former Ontario Labour Relations Board Library, the Workplace Safety and Insurance Appeals Tribunal Library and the Pay Equity Commission Library, the Ontario Workplace Tribunals Library is situated at 505 University Avenue, Toronto on the 7th floor.

Library holdings related to the OLRB include all reported OLRB decisions from 1944 to date, all judicial reviews of OLRB decisions from 1947 to date, all bargaining unit certificates issued by the OLRB from 1962 forward. In addition, the Library has a collection of all Employment Standards review decisions from 1970 to date and all Occupational Health and Safety appeal decisions from 1980 to date. Textbooks, journals and case reports in the areas of labour, administrative and constitutional law are also held.

Mediation Services

The Board is a pioneer in the area of alternative dispute resolution. The Manager, Mediation Services and Senior Mediators/Mediators ("Mediators") are responsible for mediating settlements in all of the Board's cases. In addition to settling cases, Mediators assist parties in identifying issues and streamlining the cases that do get adjudicated in order to avoid unnecessary litigation. They also, along with the Board's Labour Relations Conciliators, carry out the Board's pre and post vote phone mediation program and conduct representation and final offer votes.

Information Technology Support

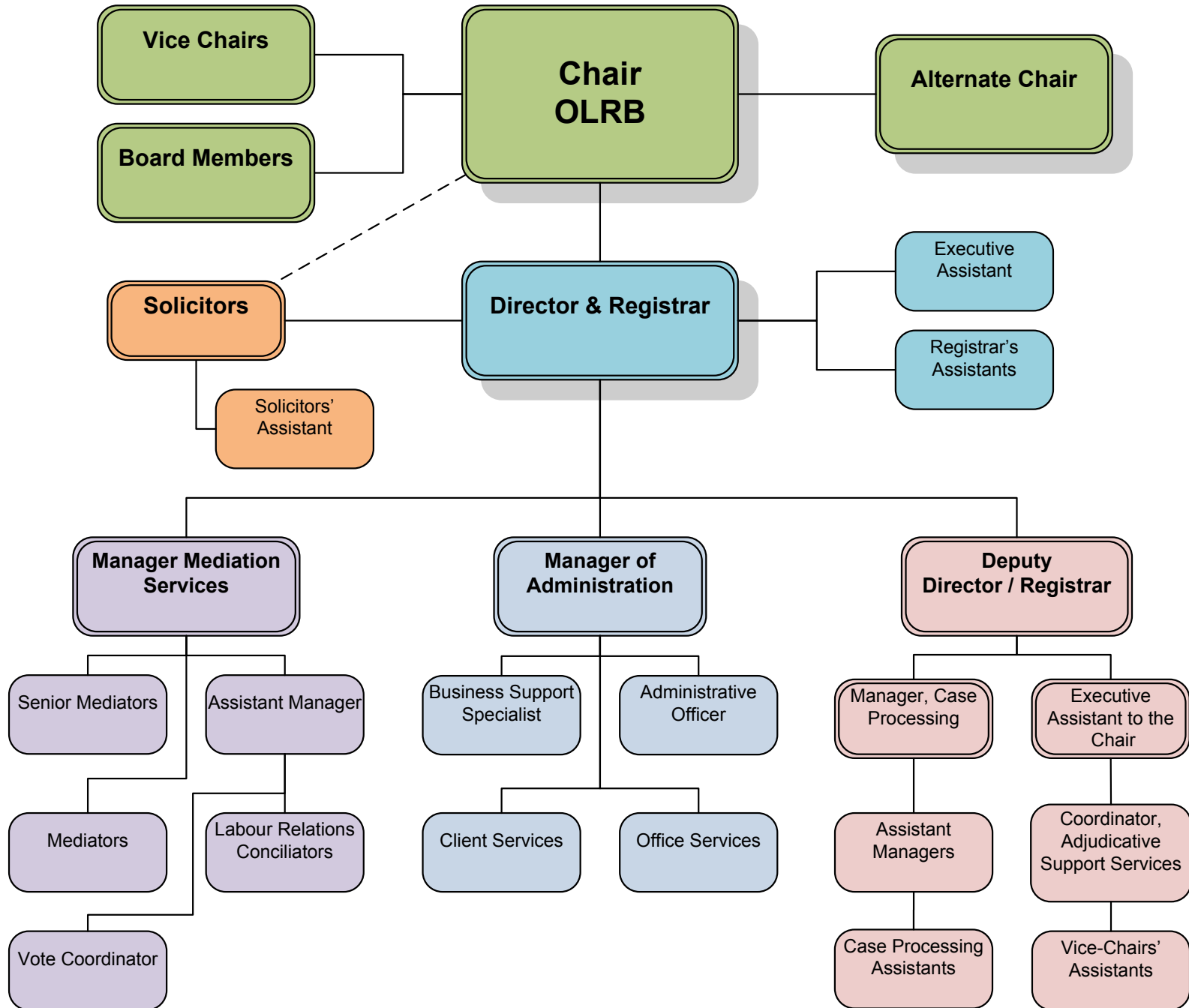
Services in IT were centralized within the Ministry of Labour and are now provided to the Board by a central help desk. Business Support Specialists at the Board maintain the systems, website, reporting services and work on major IT projects within the Board.

Legal Services

Legal Services to the Board are provided by the Solicitors' Office, which consists of two Board Solicitors. The Solicitors provide legal research, advice, opinions and memoranda to the Chair, Vice-Chairs, Board Members, Mediators and administrative staff.

They are extensively involved in changes to the Board's Rules of Procedure and forms and contribute to the continuing education of staff. The Solicitors are the Board's media spokespersons, and handle all inquiries, investigations and complaints under freedom of information or human rights legislation and from Ombudsman Ontario. The Board's Solicitors also represent the Board in court proceedings, including applications for judicial review.

Organizational Chart



It is worth noting that the Board has been heavily involved in the development of a new electronic case management system for several years. The old system was developed thirty years ago. The new system was implemented at the end of July, 2014 and final changes to the system continued throughout the fiscal period. As a result, the statistics reported in this year's Annual Report are as accurate as possible given that information was stored and reports were issued by significantly different systems operating in the same year.

While the new case management system went live in the summer of 2014, over 100 changes and corrections to defects remained outstanding. This has also affected the Board's ability to publish complete statistics in this year's Annual Report. Changes and improvements are expected to continue over the next year or two which will enhance the Board's ability to report its activity in detail.

Case Numbers and Disposition

Overall, the Board received 3790 new applications this year. This number is slightly higher than last year by 154 cases. 1,490 additional cases remained open from previous years and 1480 cases were re-opened*, for a total number of files processed before the Board this year of 6760 (Figures 1 and 2). Of the 6760 files before the Board, 4453 were disposed of** (with/without a hearing), for example, by final decision, settlement, withdrawal or abandonment. Consequently, 2153 cases were carried into 2014/15. The Board continues to work toward its goal to increase the number of cases disposed of in a year, and to that end we look for better ways to case manage, schedule, and deploy our resources.

Of disposed cases, 44% were completed within approximately 90 calendar days of application receipt and about 60%

were completed within 5 months (Figure 9).

*Files are re-opened for various reasons including when an application for reconsideration is received, a dispute arises regarding the implementation of a settlement or, until July 31, 2014 when a new case management system was introduced, when a case was re-activated after being adjourned sine die. The category of "re-opened" files is new and a result of the new case management system.

**In Figure 1, the Total Closed column reflects the activity on a file: a file may have been closed more than once. In Figure 3, the Total Closed column reflects the final disposition of an individual case before hearing. Each unique case is only recorded as closed once. In advance of implementation of the new case management system, a thorough review of the Board's caseload was conducted to identify inactive and abandoned cases to avoid unnecessary data transfers. This resulted in more case closures than the Board would normally see in an average year and the new case management system records all activity on a file.

Total Applications Received, Disposed of and Pending

Case Type Description	Total Recv.	Re-Opened	Pending start of Fiscal Apr 1, 2014	Total Caseload	Total Closed	Partially / Granted	Dismissed	Terminated	Settled Withdrawn Abandoned	Pending	Misc	Work Upheld	Work Alt.	Pending End of Fiscal Mar 31, 2015
Totals:	3,790	1,480	1,490	6,760	4,453	1,061	516	297	2,497	76	3	2	3	2,153
Accreditation (Construction)	2	-	-	2	-	-	-	-	-	-	-	-	-	2
Certification	632	671	233	1536	973	574	147	16	236	0	0	0	0	317
Certification (Construction - Card Based)	309	292	150	751	480	285	36	11	148	-	-	-	-	170
Certification (Construction)	28	73	25	126	81	27	29	-	25	-	-	-	-	28
Certification (Industrial)	295	306	58	659	412	262	82	5	63	-	-	-	-	119
Construction Grievance	996	350	151	1497	1300	288	15	66	867	64	-	-	-	383
Employment Standards	977	172	384	1533	842	51	161	109	521	0	0	0	0	614
Employment Standards - Appeal (Employer)	581	78	166	825	460	24	83	74	279	-	-	-	-	342
Employment Standards - Appeal (Director)	61	25	51	137	57	9	16	3	29	-	-	-	-	63
Employment Standards - Appeal (Employee)	334	69	166	569	322	18	62	31	211	-	-	-	-	208
Referral under Employment Standards Act	1	-	1	2	3	-	-	-	1	2	-	-	-	1
Essential Services	7	0	2	9	4	2	0	0	1	0	1	0	0	4
Essential Services - Crown Employees	4	-	1	5	0	-	-	-	-	-	-	-	-	4
Essential Services Agreement - Ambulance	3	-	1	4	4	2	-	-	1	-	1	-	-	0
Health & Safety Appeals	105	22	47	174	116	3	19	13	80	1	0	0	0	76
Appeal of Inspector's Order	83	20	44	147	96	1	9	11	74	1	-	-	-	73
Suspension of Order	22	2	3	27	20	2	10	2	6	-	-	-	-	3
Interim Order	31	8	3	42	36	8	8	-	20	-	-	-	-	4
Jurisdictional Dispute	75	21	122	218	112	8	8	1	88	2	0	2	3	126
Jurisdictional Dispute	31	19	122	172	88	8	8	1	64	2	-	2	3	103
Jurisdictional Dispute (Construction)	41	2	-	43	23	-	-	-	23	-	-	-	-	21
Jurisdictional Dispute (Industrial)	3	-	-	3	1	-	-	-	1	-	-	-	-	2
Ministerial Referrals	4	1	4	9	7	0	0	3	4	0	0	0	0	2
Ministerial Referral (Desig)	1	1	-	2	2	-	-	1	1	-	-	-	-	0
Ministerial Referral (General)	3	-	2	5	3	-	-	-	2	-	-	-	-	2
Ministerial Referral (HLDA)	-	-	2	2	2	-	-	-	1	1	-	-	-	0
Public Sector Labour Relations Transition Act	17	5	9	31	16	5	1	4	5	0	1	0	0	13
PSLRTA (Other)	3	-	-	3	1	-	-	-	1	-	-	-	-	2
PSLRTA (Bargaining Units/Bargaining Agents)	14	5	9	28	15	5	1	4	4	-	1	-	-	11
Sale of Business/Related Employer	150	44	127	321	178	38	11	15	109	5	-	-	-	158
School Board Collective Bargaining Act	7	-	-	7	4	1	-	-	2	-	1	-	-	3
Termination	70	36	37	143	82	36	24	6	16	0	0	0	0	45
Non-Construction Employer - Termination	2	-	8	10	2	1	-	-	1	-	-	-	-	7
Termination (Industrial)	58	33	25	116	71	33	22	5	11	-	-	-	-	31
Termination - Other (Non Vote-Based)	6	-	-	6	3	1	1	-	1	-	-	-	-	3
Termination (Construction)	4	3	4	11	6	1	1	1	3	-	-	-	-	4
Unfair Labour Practices	488	109	282	879	511	16	95	44	355	3	0	0	0	329
Failure to Comply with Settlement	15	4	9	28	16	6	1	2	7	-	-	-	-	8
Duty of Fair Referral	9	2	-	11	2	-	2	-	0	-	-	-	-	7
Duty of Fair Representation	167	35	78	280	163	1	71	16	75	-	-	-	-	100
Unfair Labour Practice	290	66	193	549	320	8	20	26	263	3	-	-	-	213
Unlawful Lockout	0	1	1	2	2	-	-	-	2	-	-	-	-	0
Unlawful Strike	7	1	1	9	8	1	1	-	6	-	-	-	-	1
Unlawful Reprisals	186	33	44	263	202	4	13	14	170	1	0	0	0	58
Health and Safety - Inspector Referral	14	1	3	18	17	-	1	1	15	-	-	-	-	2
Health and Safety - Reprisal	168	32	41	241	182	4	11	12	154	1	-	-	-	55
Public Service of Ontario Act	2	-	-	2	1	-	1	-	0	-	-	-	-	1
Reprisal - Environmental Bill of Rights Act	1	-	-	1	1	-	-	1	0	-	-	-	-	0
Smoke-Free Ontario Act	1	-	-	1	1	-	-	-	1	-	-	-	-	0
Votes	15	2	4	21	15	1	11	0	3	0	0	0	0	3
College Vote	2	2	1	5	2	-	2	-	0	-	-	-	-	0
Last Offer Vote	13	-	3	16	13	1	9	-	3	-	-	-	-	3
Misc	28	6	41	75	55	26	3	6	20	0	0	0	0	16
Early Termination of Collective Agreement	8	-	2	10	9	8	-	1	0	-	-	-	-	1
Employee Status	7	1	10	18	8	1	1	3	3	-	-	-	-	7
Failure to Furnish Financial Statement	-	-	1	1	1	-	-	-	1	-	-	-	-	0
First Agreement Arbitration Direction	6	3	10	19	16	2	2	-	12	-	-	-	-	3
Foreign Nationals - Appeal	1	-	3	4	4	1	-	2	1	-	-	-	-	0
Project Agreement	1	-	3	4	1	1	-	-	0	-	-	-	-	2
Religious Exemption	2	-	1	3	2	1	-	-	1	-	-	-	-	1
Sector Dispute (Construction)	1	1	3	5	2	1	-	-	1	-	-	-	-	2
Successor Trade Union	2	1	8	11	12	11	-	-	1	-	-	-	-	0

Figure 1

Applications Received and Disposed of - 5 Year Comparison

Main Case Types

The majority of cases filed in 2014/15 fall under 5 main categories:

1. Under the LRA, Certification and Termination of bargaining rights – 632 applications for certification and 70 applications for termination of bargaining rights
2. Also under the LRA, Contraventions of the Labour Relations Act – 488
3. Also under the LRA, Referrals of Construction Industry Grievances – 996
4. Under the ESA, Appeals of decisions of Employment Standards Officers – 977
5. Under the OHSA, Complaints under s. 50 and Appeals of Inspector's orders – 287

The number of applications for certification and termination of bargaining rights was 702, lower this year over last by 114 cases. This year had the lowest number of certification applications of the last three years

Complaints of the contravention of the Labour Relations Act (section 96) dropped by 27 applications to the lowest level in the last 5 years.

Construction grievances remain a relatively steady component of the Board's work; the number filed (996) is slightly higher than the past four years.

The number of Employment Standards appeals reversed a decline over the last two years climbing to 977 cases or 247 more than last year.

Complaints under the Occupational Health and Safety Act with respect to reprisals in the workplace increased slightly from

last year to 182. A peak in caseload had occurred two years ago when measures introduced in the Act permitted health and safety inspectors to refer reprisal complaints to the Board. Of the 182 applications filed this year, 14 were referred by inspectors (Figure 1) which is a significant decline from 41 the year before. Appeals of health and safety inspectors' orders declined slightly to 83.

Fiscal Years 2010-11 to 2014-15	Number Received, Fiscal Year						Number Disposed of, Fiscal Year					
	Total	2010-11	2011-12	2012-13	2013-14	2014-15	Total	2010-11	2011-12	2012-13	2013-14	2014-15
Type of Case	19,696	4,323	4,109	3,838	3,636	3,790	18,464	3,087	3,425	4,109	3,864	3,983
Accreditation (Construction)	9	1	4	2	0	2	9	3	0	2	4	0
Certification	3,293	652	592	719	698	632	3,532	671	549	669	742	901
College Vote	2	-	-	-	-	2	3	-	-	-	-	3
Consent to Prosecute	9	0	5	3	1	0	14	2	7	3	2	0
Construction Grievance	4,852	952	968	949	987	996	3,967	448	475	976	996	1,072
Contravention of Act	2,494	693	599	687	515	-	2,388	515	513	735	625	-
Duty of Fair Referral	9	-	-	-	-	9	2	-	-	-	-	2
Duty of Fair Representation	167	-	-	-	-	167	152	-	-	-	-	152
Early Termination of Collective Agreement	41	8	11	7	7	8	40	8	11	7	5	9
Employee Status	46	10	7	13	9	7	45	5	10	15	7	8
Employment Standards (Appeal)	5,105	1,351	1,304	743	730	977	4,861	967	1,370	987	721	816
Essential Services - Crown Employees	4	-	-	-	-	4	1	-	-	-	-	1
Essential Services Agreement - Ambulance	17	3	5	5	1	3	15	2	4	4	1	4
Exemption From Union Security Provision in Collective Agreement	3	0	0	2	1	-	10	0	0	10	0	-
Failure to Comply with Settlement	15	-	-	-	-	15	16	-	-	-	-	16
Failure to Furnish Financial Statement	12	4	2	2	4	0	9	2	1	1	4	1
First Agreement Direction	56	12	13	12	13	6	70	17	9	20	11	13
Foreign Nationals - Appeal	1	-	-	-	-	1	-	-	-	-	-	4
Health and Safety - Appeals	483	102	90	94	92	105	411	67	63	99	99	83
Health and Safety - Inspector Referrals	14	-	-	-	-	14	16	-	-	-	-	16
Health and Safety - Reprisals	787	110	123	207	179	168	759	75	137	212	174	161
Interim Order	31	-	-	-	-	31	31	-	-	-	-	31
Jurisdictional Dispute	393	78	115	73	52	75	336	36	29	77	103	91
Last Offer Vote	64	13	17	9	12	13	62	15	11	8	12	16
Ministerial Referrals	54	16	22	6	6	4	48	8	20	8	5	7
Other Case Types	92	29	29	21	13	-	78	14	30	16	18	-
Project Agreement	11	4	3	2	1	1	8	0	1	2	3	2
Public Sector Labour Relations Transition Act	66	11	13	12	13	17	58	4	14	7	20	13
Religious Exemption	2	-	-	-	-	2	2	-	-	-	-	2
Reprisal - Environmental Bill of Rights Act	6	1	0	3	1	1	12	6	0	4	1	1
Right of Access	2	0	0	2	0	0	2	0	0	1	1	0
Sale of Business/Related Employer	639	114	111	129	135	150	582	92	71	143	126	150
School Boards Application	7	-	-	-	-	7	4	-	-	-	-	4
Sector Dispute (Construction)	11	1	3	2	4	1	9	0	2	3	2	2
Successor Trade Union	38	1	3	3	29	2	40	2	1	4	22	11
Termination	525	151	67	119	118	70	532	126	93	84	146	83
Unfair Labour Practice	290	-	-	-	-	290	297	-	-	-	-	297
Unlawful Lockout	7	0	1	1	5	0	6	0	0	1	4	1
Act	2	-	-	-	-	2	1	-	-	-	-	1
Unlawful Reprisal - Smoke-Free Ontario Act	5	0	2	2	0	1	5	0	2	2	0	1
Unlawful Strike	32	6	0	9	10	7	31	2	2	9	10	8

Figure 2

Cases Resolved Without a Hearing

Mediators are assigned to virtually every application filed with the Board and the majority of all files disposed of are resolved without the need for litigation at a hearing before the Board. 85.7% of all closed cases were resolved without a hearing including those settled or withdrawn through mediation; 14% went to a hearing/consultation.

Case Type Description	Total Closed	Settled	% of Cases Settled	To Hearing/ Consultation
Totals:	3,964	3,396	85.7%	568
Certification	901	762	84.6%	139
Certification (Construction)	445	353	79.3%	92
Certification (Construction)	74	56	75.7%	18
Certification (Industrial)	382	353	92.4%	29
Construction Grievance	1072	958	89.4%	114
Employment Standards	816	718	88.0%	98
Employment Standards - Appeal (Employer)	446	417	93.5%	29
Employment Standards - Appeal (Director)	55	38	69.1%	17
Employment Standards - Appeal (Employee)	313	262	83.7%	51
Referral under Employment Standards Act	2	1	50.0%	1
Essential Services	5	4	80.0%	1
Essential Services - Crown Employees	1	1	100.0%	0
Essential Services Agreement - Ambulance	4	3	75.0%	1
Health & Safety Appeals	83	83	100.0%	0
Interim Order	31	21	67.7%	10
Jurisdictional Dispute	91	70	76.9%	21
Jurisdictional Dispute	69	49	71.0%	20
Jurisdictional Dispute (Construction)	21	20	95.2%	1
Jurisdictional Dispute (Industrial)	1	1	100.0%	0
Ministerial Referrals	7	7	100.0%	0
Ministerial Referral (Desig)	1	1	100.0%	0
Ministerial Referral (General)	4	4	100.0%	0
Ministerial Referral (HLDA)	2	2	100.0%	0
Public Sector Labour Relations Transition Act	13	13	100.0%	0
PSLRTA (Other)	1	1	100.0%	0
PSLRTA (Bargaining Units/Bargaining Agents)	12	12	100.0%	0
Sale of Business/Related Employer	150	116	77.3%	34
School Board Collective Bargaining Act	4	2	50.0%	2
Termination	83	65	78.3%	18
Non-Construction Employer - Termination	3	2	66.7%	1
Termination (Industrial)	71	56	78.9%	15
Termination – Other (Non Vote-Based)	3	2	66.7%	1
Termination (Construction)	6	5	83.3%	1
Unfair Labour Practices	476	384	80.7%	92
Duty of Fair Referral	2	0	0.0%	2
Duty of Fair Representation	152	129	84.9%	23
Failure to Comply with Settlement	16	14	87.5%	2
Unfair Labour Practice	297	234	78.8%	63
Unlawful Lockout	1	1	100.0%	0
Unlawful Strike	8	6	75.0%	2
Unlawful Reprisals	180	148	82.2%	32
Health and Safety - Reprisal	161	133	82.6%	28
Health and Safety - Inspector Referral	16	14	87.5%	2
Reprisal - Environmental Bill of Rights Act	1	0	0.0%	1
Unlawful Reprisal – Public Service of Ontario Act	1	0	0.0%	1
Unlawful Reprisal - Smoke-Free Ontario Act	1	1	100.0%	0
Misc	52	45	86.5%	7
Early Termination of Collective Agreement	9	9	100.0%	0
Employee Status	8	7	87.5%	1
Failure to Furnish Financial Statement	1	1	100.0%	0
First Agreement Arbitration Direction	13	11	84.6%	2
Foreign Nationals - Appeal	4	3	75.0%	1
Project Agreement	2	2	100.0%	0
Religious Exemption	2	1	50.0%	1
Sector Dispute (Construction)	2	1	50.0%	1
Successor Trade Union	11	10	90.9%	1

Figure 3

Certification and Termination of Bargaining Rights Cases

All non-construction certification applications before the Board are decided by way of a vote, as are all termination applications, whether in the construction sector or not. The vast majority of construction certification applications are decided by a “card-check” process and not by vote. As such, the statistics shown about certification votes apply almost exclusively to non-construction sectors and to termination applications.

The Board received a total of 632 applications for certification and 70 applications for termination of bargaining rights (Figure 1).

The Board held a total of 281 votes in 2014/15, with 11,846 ballots cast and counted. The vast majority of these votes relate to certification files; the remainder are representational votes in termination applications, under the successor employer/related employer provisions of the Act or are votes related to Hospital, School Board and Municipal re-organization. Unions won the majority of certification votes (59%) and won the majority of termination applications (59%). (Figure 4).

	Representation Cases Disposed			Representation Votes Conducted*		Representation Ballots Cast		
	Totals	Granted	Not Granted	Votes Conducted	Employees on Employers List	Total	In Favour of	Against
Totals	987	565	422	281	15,986	11,846	60.8%	39.2%
Certifications:	907	532	375	254	14,661	10,878	62.4%	37.6%
Construction:	524	295	229	22	446	313	47.0%	53.0%
One Union	375	235	140	13	253	181	33.7%	66.3%
Two Unions	127	53	74	9	193	132	65.2%	34.8%
Three Unions	22	7	15					
Industrial:	383	237	146	232	14,215	10,565	62.8%	37.2%
One Union	320	208	112	221	12,761	9,630	62.8%	37.2%
Two Unions	52	24	28	11	1,454	935	63.4%	36.6%
Three Unions	11	5	6					
Termination:								
One Union	80	33	47	27	1,325	968	42.9%	57.1%

* Refers to all representation votes conducted and the results counted during the fiscal year, regardless of whether or not the case was disposed of during the year

Figure 4

Of the 412 certificates issued, 237 bargaining units were composed of 2 - 9 employees, and at the other extreme 11 were bargaining units of 200 - 499 employees, and 1 was a unit had over 500 employees (Figure 5).

Note: An accurate breakdown by industry of the non-construction certification applications is not available this year due to the implementation of a new case management system part-way through the year and post-implementation changes. It is expected that this information will be available next year.

Employees	Total		Construction		Industrial	
	Cases	Employees	Cases	Employees	Cases	Employees
Total:	412	11,638	222	1,551	190	10,087
2-9	237	1,033	185	736	52	297
10-19	72	977	26	342	46	635
20-39	41	1,132	8	207	33	925
40-99	37	2,320	1	49	36	2,271
100-199	13	1,712	2	217	11	1,495
200-499	11	2,807	-	-	11	2,807
500 +	1	1,657	-	-	1	1,657

Figure 5

95% of all non-construction certification votes were held within five working days of application, about 97% within seven days and approximately 98% within eight days of application. Termination applications took slightly longer, largely because of bargaining unit and notice issues: over 65% were held within five days of application, 90% within seven days and 93% within eight days of application (Figures 6).

Number of Days	Total		Industrial		Construction		Termination Cases to Vote	
	Cases	% of	Cases	% of	Cases	% of	Cases	% of
	308		279		29		41	
< 5	0	0.00%	0	0.00%	0	0.00%	0	0.00%
5	268	87.01%	265	94.98%	3	10.34%	27	65.85%
6	8	89.61%	3	96.06%	5	27.59%	4	75.61%
7	9	92.53%	4	97.49%	5	44.83%	6	90.24%
8	4	93.83%	1	97.85%	3	55.17%	1	92.68%
9	0	93.83%	0	97.85%	0	55.17%	0	92.68%
10	0	93.83%	0	97.85%	0	55.17%	0	92.68%
11-15	2	94.48%	1	98.21%	1	58.62%	1	95.12%
16-20	0	94.48%	0	98.21%	0	58.62%	0	95.12%
21+	17	100.00%	5	100.00%	12	100.00%	2	100.00%

Figure 6

Contravention of Act

Complaints alleging contravention of the Labour Relations Act may be filed with the Board under section 96 of the Act.

In 2014-2015, the Board received 488 complaints under this section, a decrease from last year's 515 (Figure 2). In complaints against employers, the principal charges were alleged illegal discharge of or discrimination against employees for union activity in violation of section 70 and 72 of the Act, illegal changes in wages and working conditions contrary to section 86, and failure to bargain in good faith under section 17. These charges were made mostly in connection with applications for certification. The principal charge against trade unions was alleged failure to represent employees fairly in grievances against their employer.

Overall, in addition to the complaints received, 282 cases were carried over from 2013-2014 and 109 were re-opened. Of the 879 cases processed, there were 511 file closures, 329 cases were pending on March 31, 2015 (Figure 1). Of 476 files closed on a final basis, approximately 80% were resolved without a hearing.

Duty of Fair Representation / Referral

Complaints against trade unions for a breach of the duty to provide fair representation or referral (ss. 74 and 75 LRA) numbered 176. One was granted, 73 were dismissed and 16 were terminated. Of 152 files closed, 85% were resolved without a hearing. Only 25 went to hearing. 107 were pending as of March 31, 2015 (Figure 1).

Applications for Interim Order

Where a proceeding is pending, the Board, on application under the Act and the Occupational Health and Safety Act, may make interim orders requiring an employer to reinstate an employ-

ee in employment on such terms as it considers appropriate. The Board may also issue interim orders respecting the terms and conditions of employment of an employee whose employment has not been terminated but whose terms and conditions of employment have been altered or who has been subject to reprisal, penalty or discipline by the employer. The Board may only issue interim orders if specific conditions set out in the Act are met.

In 2014/15, the Board received 31 applications for interim orders. During the year, eight interim orders were granted and eight dismissed. Twenty files were resolved without a hearing. Only four were pending on March 31, 2015.

Construction Industry Grievances

Grievances over alleged violations of the provisions of a collective agreement in the construction industry may be referred to the Board for resolution under section 133 of the Act.

In 2014-2015, the Board received 996 cases under this section (Figure 1). The principal issues in these grievances were alleged failure by employers to make required contributions to health and welfare, pension and vacation funds, failure to deduct union dues, and alleged violation of the subcontracting and hiring arrangements in the collective agreement.

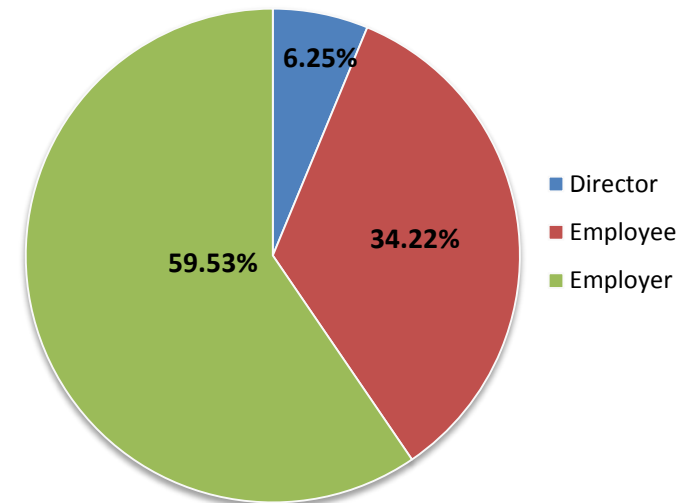
In addition to the cases received, 151 were carried over from 2013-2014 and 350 were re-opened. Of the total 1,497 processed, there were 1300 file closures. Awards were made by the Board in 288 cases, 15 cases were dismissed, 66 were terminated and 958 or 89% were resolved without a hearing. 383 cases were pending on March 31, 2015. (Figure 1)

Appeals under the Employment Standards Act

The Employment Standards Act deals with workplace rights such as minimum wage, hours of work, overtime, vacation or public holiday pay, violations of pregnancy or reprisal provisions, termination issues, and severance pay.

The Board dealt with 1533 appeals during 2014-2015, which includes 977 new cases filed, 384 cases from the previous year and 172 re-opened files. Of the 842 case closures, 51 were granted, 161 were dismissed, and 109 were terminated. 614 cases were pending on March 31, 2015. (Figure 1) Approximately 60% of the appeals were filed by the employer. Eighty-eight percent or 718 of individual cases closed were resolved without a hearing and 98 cases went to hearing.

Cases Received



Occupational Health and Safety Act

In 2014-2015, the Board received 182 complaints under Section 50 of the Occupational Health and Safety Act alleging wrongful discipline or discharge for acting in compliance with the Act. Forty-four cases were carried over from 2013-14 and 33 were re-opened for a total of 259 cases (Figure 1). 14 of those applications were referred by health and safety inspectors. (Figure 1)

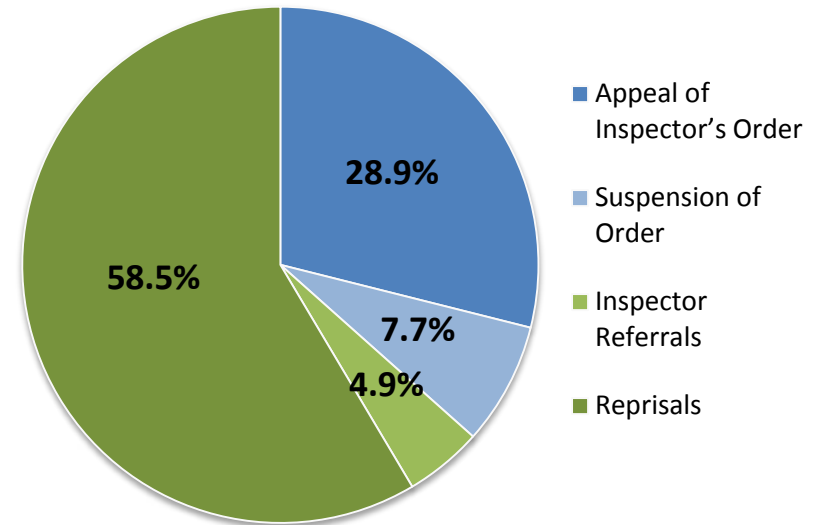
Of the total 177 individual cases closed, 147 cases (85%) were resolved by the parties prior to a hearing (Figure 3). Twenty-five cases were dismissed or terminated, and four were granted. Fifty-seven cases were pending on March 31, 2015. (Figure 1)

Appeals under the Occupational Health and Safety Act

The Occupational Health and Safety Act and its regulations ensure that workers' health and safety in the workplace is protected. Violations of the Act are investigated by health and safety inspectors from the Ministry of Labour; orders or decisions of inspectors are the subject of appeals to the Ontario Labour Relations Board.

147 appeals were dealt with by the Board in 2014-2015. One appeal was granted, 9 were dismissed, 74 cases were settled, 11 cases were terminated, and 73 cases were pending on March 31, 2015 (Figure 1). Of 83 individual files closed, all were resolved prior to a hearing.

Cases Received



School Board Collective Bargaining Act

The School Boards Collective Bargaining Act, 2014, S.O. 2014, c. 5 conferred new jurisdiction on the Board to decide disputes over whether issues are to be dealt with at central or local bargaining under the new collective bargaining structure established by the Act. Seven applications were received and four were disposed of: two by final decision following a hearing and two were resolved without a hearing (one was withdrawn). Three remained pending on March 31, 2015.

Essential Services

Four applications were received under the Crown Employees Collective Bargaining Act in March 2015 and one was carried over from the previous year. One was resolved without a hearing and four remained pending as of March 31, 2015. Three cases were received under the Ambulance Services Collective Bargaining Act and one remained pending from the previous year. All files were closed by March 31, 2015 including three which were resolved without a hearing; two were granted.

Last Offer Votes

The Minister of Labour requests the Board to conduct votes among employees on employers' last offers for settlement of a collective agreement dispute under section 42(1) of the Act. Although the Board is not responsible for the administration of votes under that section, the Board's Mediators and Labour Relations Conciliators are assigned by the Registrar to conduct these votes because of their expertise and experience in conducting representation votes under the Act.

The Board dealt with thirteen new and three pending requests during the fiscal year. The employees voted to accept the

collective agreement in one case and reject the collective agreement in nine cases. Three cases were settled or withdrawn, and three cases were pending on March 31, 2015. (Figure 1)

Declaration of Successor Trade Union

Eight applications for declaration of successor trade union were pending April 1, 2014 with two new applications received and one re-opened. Eleven applications were granted and one was settled in the current fiscal year. There were no cases pending as of March 31st, 2015. (Figure 1)

Declaration of Successor or Common Employer Status

In 2014-2015, the Board had a caseload of 321 applications for declarations under section 69 of the Act concerning the bargaining rights of trade unions of a successor employer resulting from a sale of business, or for declarations under section 1(4) to treat two companies as one employer. The two types of requests are often made in a single application.

Affirmative declarations were issued by the Board in 38 cases, 11 applications were dismissed, 15 cases were terminated and 158 cases were pending on March 31, 2015. 116 or 77% of individual cases closed were resolved without a hearing. (Figure 1 and 3)

Declaration/Direction of Unlawful Strike/Lock-out

In 2014-2015, the Board received seven applications seeking a declaration under section 100 regarding an alleged unlawful strike by employees. One file was re-opened and one was carried over from the previous year. One application was granted, six cases settled without a hearing and one was dismissed. One case was pending on March 31, 2015.

No applications for a declaration under section 101 regarding an alleged unlawful lock-out by an employer were received and two outstanding cases were settled. (Figure 1)

Religious Exemption from Union Security Provision in Collective Agreement

Two applications were received and one was carried over under section 52 of the Act, seeking exemption for the employee from the union security provisions of collective agreements because of their religious beliefs and another case was pending. One was granted and one was resolved. One remained pending on March 31, 2015. (Figure 1)

Early Termination of Collective Agreements

Ten applications, including eight new ones, were processed under section 58(3) of the Act, seeking early termination of collective agreements. These are joint applications by employers and trade unions. Consent was granted in eight cases and one was terminated. One remained pending on March 31, 2015. (Figure 1)

Jurisdictional Disputes

218 applications were before the Board under section 99 of the Act involving union work jurisdiction. An assignment of work in dispute was made by the Board in eight cases, eight cases were dismissed, one was terminated and 126 cases were pending on March 31, 2015. (Figure 1) Seventy-seven percent of individual cases closed were resolved prior to a hearing date.

Referral on Employee Status

The Board had 18 applications before it under section 114(2) of the Act, seeking decisions on the status of individuals as employees under the Act. Seven of eight cases closed were resolved by the parties before a hearing and seven cases were

pending on March 31, 2015. (Figure 1) One was granted, one dismissed and three applications were terminated.

Referrals by Minister of Labour

In 2014-2015, the Board dealt with nine cases referred by the Minister under section 115 of the LRA for opinions or questions related to the Minister's authority to appoint a conciliation officer under section 18 of the Act, under sections 48 or 49 of the LRA for authority to appoint an arbitrator, or under s.3(2) of the Hospital Labour Disputes Arbitration Act. Seven individual applications were resolved without a hearing, including four settled and three terminated. Two cases were pending on March 31, 2015. (Figure 1)

First Agreement Arbitration

In 2014-2015, the Board processed nineteen applications for directions to settle first agreements by arbitration and three remained pending on March 31, 2015. Sixteen file closures took place: eleven files (85%) were resolved without a hearing, twelve settled, two were granted and two dismissed. (Figure 1 and 3)

Applications under the Public Sector Labour Relations Transition Act

The Public Sector Labour Relations Transition Act, 1997 established a separate regime of successor rights governing matters that arise out of restructuring and amalgamations in the broader public sector. The Act gives the Board the power to determine new bargaining unit configurations, to appoint new bargaining agents, and to address other collective bargaining issues that may arise from municipal amalgamations, school board changes and hospital restructuring.

In 2014-2015, the Board processed 31 applications under the Public Sector Labour Relations Transition Act, 1997 including 17 new applications. Of the sixteen case closures, five cases were granted, one was dismissed, four terminated, thirteen files were disposed of without a hearing. Thirteen cases were pending on March 31, 2015. (Figure 1)

Time Required to Dispose of Applications, By Major Case Type

	All Cases		Certification		Contravention		Health & Safety		Employment Standards		Construction Industry Grievances		All Other Cases	
Time Taken	Cumulative %		Cumulative %		Cumulative %		Cumulative %		Cumulative %		Cumulative %		Cumulative %	
(Calendar Days)	Dispositions		Dispositions		Dispositions		Dispositions		Dispositions		Dispositions		Dispositions	
Total	3745	100.0	1144	100.0	466	100.0	257	100.0	750	100.0	924	100.0	204	100.0
0-7	103	2.8	33	2.9	11	2.4	3	1.2	0	0.0	51	5.5	5	2.5
8-14	411	13.7	64	8.5	19	6.4	6	3.5	0	0.0	309	39.0	13	8.8
15-21	190	18.8	67	14.3	12	9.0	9	7.0	5	0.7	84	48.1	13	15.2
22-28	134	22.4	27	16.7	16	12.4	24	16.3	7	1.6	55	54.0	5	17.6
29-35	117	25.5	32	19.5	12	15.0	21	24.5	10	2.9	39	58.2	3	19.1
36-42	95	28.0	22	21.4	13	17.8	20	32.3	18	5.3	18	60.2	4	21.1
43-49	87	30.4	16	22.8	18	21.7	17	38.9	17	7.6	16	61.9	3	22.5
50-56	92	32.8	14	24.0	13	24.5	22	47.5	21	10.4	19	64.0	3	24.0
57-63	81	35.0	7	24.7	9	26.4	14	52.9	29	14.3	16	65.7	6	27.0
64-70	83	37.2	16	26.0	11	28.8	12	57.6	32	18.5	10	66.8	2	27.9
71-77	85	39.5	21	27.9	16	32.2	9	61.1	32	22.8	4	67.2	3	29.4
78-84	87	41.8	15	29.2	15	35.4	6	63.4	35	27.5	11	68.4	5	31.9
85-91	85	44.1	16	30.6	7	36.9	11	67.7	33	31.9	17	70.2	1	32.4
92-98	73	46.0	16	32.0	11	39.3	4	69.3	34	36.4	6	70.9	2	33.3
99-105	90	48.4	22	33.9	14	42.3	8	72.4	32	40.7	11	72.1	3	34.8
106-126	167	52.9	26	36.2	27	48.1	12	77.0	67	49.6	15	73.7	20	44.6
127-147	152	56.9	34	39.2	19	52.1	4	78.6	61	57.7	31	77.1	3	46.1
148-168	137	60.6	35	42.2	15	55.4	7	81.3	47	64.0	17	78.9	16	53.9
168+	1476	100.0	661	100.0	208	100.0	48	100.0	270	100.0	195	100.0	94	100.0

Figure 7

Court Activity

On April 1, 2014, there were twenty-one Board matters pending before the Courts:

- Sixteen of them at Divisional Court;
- Two matters seeking leave to the Court of Appeal: Biggs & Narciso and Rainbow Concrete;
- Two matters waiting to be heard on the merits at the Court of Appeal: Terceira and Sheet Metal Workers (EllisDon)
- One matter seeking leave at the Supreme Court of Canada: Shi.

During the 2014-2015 fiscal year, there were sixteen new applications for judicial review of Board decisions filed with the Divisional Court.

A total of seventeen applications for judicial review were disposed of by the Divisional Court. Two were dismissed on the merits (Gate Gourmet and IBEW Local 894). Fifteen applications were abandoned (including five on which the Board has seen no activity for over two years, so has deemed to be abandoned: Hasna, McCredie and three Khaiteer matters).

Two motions for leave to the Court of Appeal were pending on April 1, 2014. Both were dismissed: Biggs & Narciso and Rainbow Concrete. One new motion for leave was filed, and was dismissed (Bur-Met).

The Court of Appeal heard two appeals from the Divisional Court which had quashed the Board's decisions. Both appeals were successful and the Board's rulings were restored: Terceira and Sheet Metal Workers (EllisDon).

As a result of the latter ruling at the Court of Appeal, EllisDon is currently seeking leave to the Supreme Court of Canada. One leave application to the Supreme Court of Canada outstanding on April 1, 2014 was dismissed (Shi).

Fifteen applications for judicial review remained outstanding at Divisional Court on March 31, 2015, including two matters which were recently heard, but were on reserve (Kosciuk and Harrison).

Type of Case	Caseload			Disposed of				Pending March 31, 2015
	Total	Pending April 1, 2014	Received	Total	Granted	Dismissed	Abandoned	
Total	39	21	18	23	2	6	15	16
Divisional Court (Merits)	32	16 ⁱ	16	17	0	2	15 ⁱⁱ	15
Divisional Court (Stay)	0	0	0	0	0	0	0	0
Ontario Court of Appeal (Seeking Leave)	3	2	1	3	0	3	0	0
Ontario Court of Appeal (Merits)	2	2	0	2	2	0	0	0
Supreme Court of Canada (Seeking Leave)	2	1	1	1	0	1	0	1
Supreme Court of Canada (Merits)	0	0	0	0	0	0	0	0

Figure 8

ⁱ Includes 3 applications for leave to a three-person panel of the Divisional Court, to appeal the decision of a single judge (February 20, 2013) dismissing the application for judicial review (Khaiteer No. 1, 2 and 3)

ⁱⁱ Includes 5 matters that are in excess of 2 years old, with no activity (Hasna, McCredie, Khaiteer No. 1, 2 and 3)

Financial Position

The Board's annual operating budget is part of the Ministry's estimates and allocation process and the Board is required to report regularly on its expenditures and planned commitments.

The Deputy Minister of Labour has delegated authority for specific financial and administrative transactions to the Chair of the Board, the Director and Managers.

The OLRB is subject to audit review and expenditure constraints and its managers are accountable for following established management practices and using public resources for authorized purposes.

Salary expenditures were less than expected due to vacancies among OIC appointees, Mediators and staff and consequent recruitment initiatives. Throughout the budget year, services expenses were higher than expected largely due to increased IT costs related to the development of a new case management system. The total annual remuneration for all OIC appointees was \$2,538,362.

Fiscal Year – 2014/2015

All figures in \$000.0 thousand

Non-Tax Revenue	2014-2015 Revenue
Construction Grievance	545.2
Publications	36.6
Subscriptions	3.6
Total	585.4

Account	Final Allocation*	Actual Expenditures**	Variance	% Variance
Salaries & Wages	7,855.7	6,973.8	881.9	11.2%
Benefits	967.9	928.2	39.7	4.1%
ODOE:				
Transportation & Communication	448.9	324.3	124.6	27.8%
Services (incl. Lease & IT charges)	3,393.3	3,880.9	-487.6	-14.4%
Supplies & Equip	82.2	61.9	20.3	24.7%
Total ODOE	3,924.4	4,267.0	-342.6	-8.7%
GRAND TOTAL	12,748.0	12,168.9	579.1	4.5%

* Final Allocation = Printed Estimates +/- TBO, re-alignment of funds by standard account.

** Year-end Actual Expenditures including office lease cost and IT charges

Performance Measures

Each year the OLRB provides a broad accountability of progress achieved on our core performance measures. We take each of our goals and track progress on a series of performance measures designed to assess whether the Board is measuring up to corporate standards and program targets/commitments.

Fiscal Measures: Percentage variance between year-end allocation expenditure.

Standard / Target:	Less than 2% variance between year-end allocation and expenditure.
2015-2016 Commitments:	Less than 2% variance between year-end allocation and expenditure.
2014-2015 Achievements:	Actual: 4.5% variance Approved budget: \$12,748.0 Actual expenditure: \$12,168.9

Program Effectiveness Measures: Meeting legislated timelines.

Standard / Target:	90% Industrial certification votes held within 5-7 days. 95% held within 7-10 days. 5% or less held within more than 10 days.
2015-2016 Commitments:	90% Industrial certification votes held within 5-7 days. 95% held within 7-10 days. 5% or less held within more than 10 days.
2014-2015 Achievements:	Actual: 95% of votes held within 5-7 days or less 98% of votes held within 7-10 days or less Less than 2% of votes held in more than 10 days

Percentage of LRA, ES and HS cases resolved prior to hearing.

Standard / Target:	LRA cases: 85% ESA (appeals) cases: 75% OHSA (appeals) cases: 75% OHSA (complaints) cases: 75%
2015-2016 Commitments:	LRA cases: 85% ESA (appeals) cases: 75% OHSA (appeals) cases: 75% OHSA (complaints) cases: 75%
2014-2015 Achievements:	Actual: LRA cases: 84.8% ESA (appeals) cases: 88% OHSA (appeals) cases: 100% OHSA (complaints) cases: 83%

Percentage of judicial reviews upheld:

Standard / Target:	90-100%
2015-2016 Commitments:	90-100%
2014-2015 Achievements:	100%

Accountability Statement

The OLRB's Annual Report for the fiscal year ending March 31, 2015 was prepared under my direction for submission to the Minister of Labour in accordance with the Agencies and Appointments Directive-2015 as issued by Management Board of Cabinet.

The Public Accounts of Ontario are the annual financial statements that are prepared in compliance with the requirements of Section 13 of the Ministry of Treasury and Economics Act. The Public Accounts consist of the financial report of the Government of Ontario and the financial reports of each ministry. In accordance with the Ministry of Labour's Delegation of Financial Authority Framework, financial authority is delegated to the agency. Each year the OLRB verifies that all its transactions are reflected accurately and completely in the Public Accounts through the execution of a Certificate of Assurance.

As an agency of the Ministry of Labour, the OLRB's Annual Report is subject to the minimum reporting requirements established in the Agencies and Appointments Directive, including:

- Financial statements that have been audited or subject to the appropriate level of external assurance;
- Analysis of operational performance;
- Analysis of financial performance;
- Names of appointees and term of appointments
- Performance measures, targets achieved/not achieved and action to be taken.

This report covers the fiscal year April 1, 2014 to March 31, 2015.

For More Information

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