

# 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  
2015-2016**

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As I begin my second term as Chair of the Ontario Labour Relations Board, I thought I might be permitted the indulgence of reflecting on the changes in the Board since my initial appointment over five years ago. In my (hopefully not too self-serving) view, the Board, not a stagnant or moribund agency by any means at any time, has managed to reinvigorate itself over the last five years. This has happened, not with any major disruptions to levels of service or quality, but through retirement, natural attrition and thoughtful and selective recruitment, hiring and appointments.

Twelve of 25 OIC appointments as full or part-time Vice Chairs have been replaced (in fact, a number of those replacements have already been replaced) and there are new appointments on the way. Four of the Members have left and all the Members are now part time and have been augmented by a large (and still increasing) complement of Members with either ongoing or recent connections to the employer or employee constituencies they represent. The entire senior management team of the Board – the Director/Registrar (Catherine Gilbert), the Deputy Director/Registrar (Ursula Boylan), the Manager of Mediation Services (Travis Kearns) and the Manager of Administration (Wendy Grisbrook) – started in the last few years. The Mediators have also experienced just as significant a turnover and infusion of new blood.

We have also made significant administrative changes which have improved the speed and processing of many of the outcomes at the Board. All construction industry certifications are now case managed from the outset to ensure they can be litigated, if necessary, in an orderly and less wasteful manner. We have just concluded our second construction industry “open period”, so that the termination or displacement applications (permitted only during this time) can be processed and litigated in a more structured yet expedited manner. Scheduling protocols have been implemented

that allow the Board to schedule hearing dates for more time-sensitive matters (unlawful strike or lock-out applications, interim applications, discharge cases), and continuation hearing dates for all matters in a quicker, more efficient manner. We are experimenting with part time appointments resident outside of Toronto so that we may be able to hold some hearings outside of Toronto without incurring the substantial travel and accommodation costs that caused the Board to greatly reduce the number of out-of-town hearings it held many years ago.

We have built and implemented (not without some struggles) an entirely new case management system that not only does not regularly break down like the 30-year old system it replaced, but can be modified over time to incorporate many long needed and long awaited technological advances like e filing. We are now conducting an increasing number of hearings by Skype, particularly in Employment Standards Appeals, so parties need not travel to Toronto for hearings, particularly when the costs of such travel may be disproportionate to the amounts at stake.

We have done this in an incremental but deliberate way so as to avoid disruption for services that are still required to be available regularly, continuously and predictably. This, again hopefully not too self-servingly, is an enviable record upon which we hope to continue and expand and build on in the future.

2015-2016 was yet another busy year for the Board. There were 3,411 new applications this year that represents a decrease of 380 cases, that is largely attributable to a significant drop in Employment Standards Appeals (204) and construction industry grievances (142) – which at this point is too early to (and seems unlikely to) substantiate a long-term trend. Representation applications increased by 56 (52 certification applications and four termination applications) – but this fiscal period closed in the

midst of the now only 2 months “open period” – so at this time, it is difficult to ascertain what impact that may have. Significantly, the Board this year carried over only 1,924 cases into the current fiscal period (cases opened in previous fiscal period but not concluded in this fiscal period). Starting in 2011, the Board has worked successfully to reduce the number of cases carried over into the next year. Under the Board’s new (2014) case management system, files which are adjourned sine die now remain “active” until the adjournment period expires; the system used to consider them closed immediately upon adjournment. Despite this significant change, the number of files carried over dropped again this year. As well, the Board continues to elaborate on new jurisdiction conferred on it, and particularly with respect to the School Boards Collective Bargaining Act, with a number of precedent-setting decisions released over the past year.

As I have come to increasingly appreciate over the years, none of this is possible without the efforts of the expert and dedicated staff of the Board – knowledgeable and discerning adjudicators, talented and effective mediators (86% of the overall caseload continues to be resolved without any final hearing or adjudication), committed and agile administrators and a hardworking and enthusiastic support staff. Not only do I owe them all a huge debt of gratitude but it is because of them the Board continues to enjoy its representation as the country’s largest and preeminent labour and employment tribunal.

We all continue to work diligently to make the Board even better at what it does, and as I have said at the close of each of these Chair’s messages, in each of these annual reports, 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
  - *Fisheries Act*, R.S.C. 1985, c.F-14
  - *Nutrient Management Act*, 2002, S.O. 2002, c. 4
  - *Ontario Water Resources Act*, R.S.O. 1990, c.O.40
  - *Pesticides Act*, R.S.O. 1990, c.P.11
  - *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 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](http://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.

There are also 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 legislation 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”) which is an agency of the Ministry of Education. The Board’s Chair is the Chair of the ERC, a Board Vice-Chair serves at the ERC Alternate Chair and several Board Vice-Chairs sit as ERC Members. A Vice-Chair of the Board is the Presiding Officer of the Pay Equity Hearings Tribunal. 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 may sit on review panels for the College of Trades and the Board would be 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 86% of all disputes coming before the Board are resolved, including by mediation, prior to litigating the matter at a final 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 2015 – 2016 and their appointment terms.

| Name                      | First Appointed   | Term of Appointment |
|---------------------------|-------------------|---------------------|
| <b>Members (Employer)</b> |                   |                     |
| Bolton, Lori              | March 11, 2015    | March 10, 2017      |
| Cook, William             | March 18, 2015    | March 17, 2017      |
| LeChien, Robert           | April 15, 2015    | April 14, 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   |
| Martin, Ron               | March 25, 2015    | March 24, 2017      |
| <b>Members (Employee)</b> |                   |                     |
| Chudak, Edward            | April 1, 2015     | March 31, 2017      |
| Collins, Thomas           | April 1, 2015     | March 31, 2017      |
| Haward, Alan              | March 25, 1998    | March 24, 2017      |
| McManus, Shannon R. B.    | December 15, 2005 | December 14, 2016   |
| Nicholls, William         | May 6, 2015       | May 5, 2017         |
| Patterson, David A.       | April 2, 1986     | April 1, 2017       |
| Phillips, Carol           | January 14, 2009  | January 13, 2017    |

| Name                     | First Appointed    | Term of Appointment |
|--------------------------|--------------------|---------------------|
| <b>Chair</b>             |                    |                     |
| Fishbein, Bernard        | February 28, 2011  | February 27, 2021   |
| <b>Alternate Chair</b>   |                    |                     |
| McLean, Brian C.         | July 8, 1998       | July 7, 2017        |
| <b>Full Time VCs</b>     |                    |                     |
| Anand, Gita              | January 15, 2016   | January 14, 2018    |
| 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, 2018   |
| McKee, David A.          | April 29, 1999     | April 29, 2016      |
| McKellar, Mary Anne      | January 24, 2001   | January 23, 2017    |
| Nyman, Jesse             | December 21, 2012  | February 1, 2016    |
| Rowan, Caroline          | May 6, 1999        | May 6, 2016         |
| Seveny, Yvon             | May 25, 2015       | May 26, 2017        |
| Shouldice, Lee           | May 30, 2007       | May 29, 2017        |
| Slaughter, Jack J.       | February 3, 2003   | February 2, 2021    |
| Turtle, Paula            | July 22, 2015      | July 21, 2017       |
| Waddingham, Kelly A.     | April 7, 2004      | December 31, 2017   |
| Wilson, Matthew          | August 29, 2012    | August 28, 2017     |
| <b>Part Time VCs</b>     |                    |                     |
| Albertyn, Christopher J. | October 7 1994     | August 30, 2017     |
| 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     |
| Kitchen, Robert          | May 30, 2012       | July 8, 2017        |
| Kuttner, Thomas          | September 11, 2013 | September 10, 2018  |
| McDermott, Edward T.     | May 17 2011        | May 16, 2016        |
| Mitchell, Michael C.     | July 22, 2015      | July 21, 2017       |
| Nyman, Jesse             | February 1, 2016   | December 20, 2017   |
| Rogers, Derek            | August 28, 2013    | August 27, 2018     |
| 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 and 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

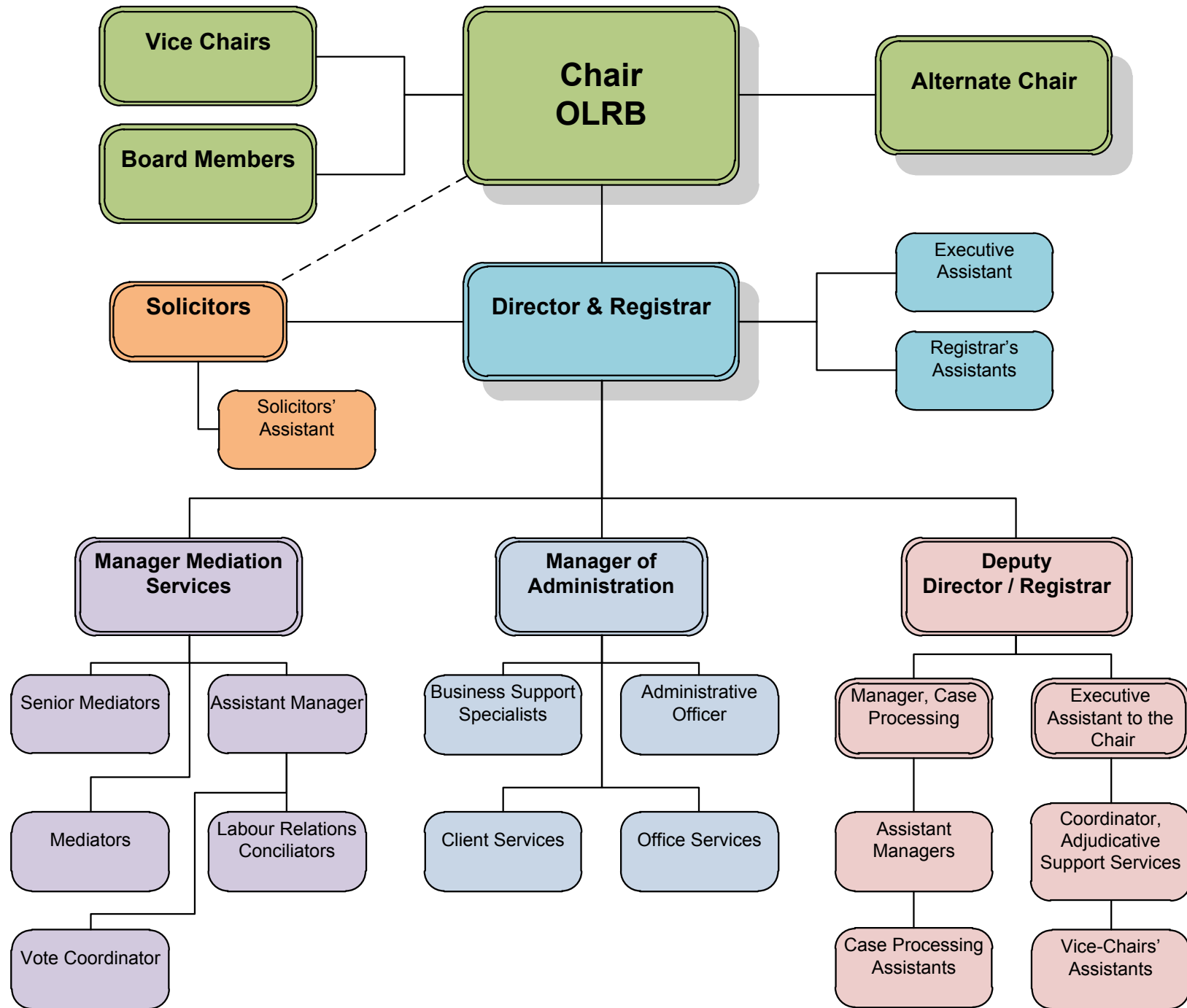
Services in IT were centralized within the Ministry of Labour and are now provided to the Board by a central help desk. Business Support Specialists at the Board maintain the systems, website and reporting services and work on major IT projects within the Board.

### 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 a new electronic case management system was implemented at the end of July, 2014 and upgrades to the system continued throughout the fiscal period. Improvements are expected to continue over the next year or two which will enhance the Board's ability to report its activity.

### Case Numbers and Disposition

Overall, the Board received 3411 new applications this year. This number is lower than last year by 380 cases. 2082 additional cases remained open from previous years and 827 cases were re-opened\*, for a total number of files processed before the Board this year of 6320 (Figures 1 and 2). Of the 6320 files before the Board, 4396 were disposed of\*\* (with/without a hearing), for example, by final decision, settlement, withdrawal or abandonment. Consequently, 1924 cases were carried into 2016/17. The Board's new case management system records cases which are adjourned sine die as "active" until the adjournment period expires and the file is then closed. In the past, the files were immediately closed when adjourned sine die. 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, 40% were completed within approximately 90 calendar days of application receipt and about 54% were completed within 5 months (Figure 9).

\*Files are re-opened for various reasons including when an application for reconsideration is received or a dispute arises regarding the implementation of a settlement. 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.

# Total Applications Received, Disposed of and Pending

| Case Type Description                                | Total Received | Re-Opened  | Pending April 1 2015 | Total Caseload | Total Closed | Granted / Partially | Dismissed  | Terminated | Settled / Withdrawn / Abandoned | Pending    | Advice Provided | Work Upheld | Work Altered | Open March 31 2016 |
|------------------------------------------------------|----------------|------------|----------------------|----------------|--------------|---------------------|------------|------------|---------------------------------|------------|-----------------|-------------|--------------|--------------------|
| <b>Totals:</b>                                       | <b>3,411</b>   | <b>826</b> | <b>2,082</b>         | <b>6,319</b>   | <b>4,395</b> | <b>1,107</b>        | <b>580</b> | <b>194</b> | <b>2,360</b>                    | <b>132</b> | <b>12</b>       | <b>3</b>    | <b>7</b>     | <b>1,923</b>       |
| <b>Accreditation (Construction)</b>                  | 4              | 1          | 2                    | 7              | 4            | 4                   | -          | -          | -                               | -          | -               | -           | -            | 3                  |
| <b>Certification</b>                                 | 683            | 331        | 316                  | 1,330          | 899          | 528                 | 130        | 10         | 222                             | 6          | 3               | -           | -            | 430                |
| Certification (Construction - Card Based)            | 337            | 164        | 169                  | 670            | 411          | 244                 | 35         | 2          | 125                             | 4          | 1               | -           | -            | 259                |
| Certification (Construction)                         | 17             | 41         | 28                   | 86             | 56           | 23                  | 10         | 2          | 21                              | -          | -               | -           | -            | 30                 |
| Certification (Construction - Open Period)           | 24             | -          | -                    | 24             | -            | -                   | -          | -          | -                               | -          | -               | -           | -            | 24                 |
| Certification (Industrial)                           | 305            | 126        | 119                  | 550            | 432          | 261                 | 85         | 6          | 76                              | 2          | 2               | -           | -            | 117                |
| <b>Colleges Collective Bargaining Act</b>            | 3              | -          | -                    | 3              | 1            | -                   | -          | -          | 1                               | -          | -               | -           | -            | 2                  |
| Certification                                        | 1              | -          | -                    | 1              | -            | -                   | -          | -          | -                               | -          | -               | -           | -            | 1                  |
| Violation of Colleges Collective Bargaining Act      | 2              | -          | -                    | 2              | 1            | -                   | -          | -          | 1                               | -          | -               | -           | -            | 1                  |
| <b>Construction Grievance</b>                        | 854            | 228        | 383                  | 1,465          | 1,133        | 271                 | 25         | 24         | 706                             | 106        | 1               | -           | -            | 332                |
| <b>Employment Standards</b>                          | 773            | 106        | 546                  | 1,425          | 1,080        | 141                 | 195        | 98         | 644                             | 2          | -               | -           | -            | 345                |
| Employment Standards - Appeal (Director)             | 68             | 10         | 63                   | 141            | 112          | 20                  | 26         | 15         | 51                              | -          | -               | -           | -            | 29                 |
| Employment Standards - Appeal (Employee)             | 253            | 28         | 208                  | 489            | 358          | 37                  | 77         | 28         | 215                             | -          | 1               | -           | -            | 131                |
| Employment Standards - Appeal (Employer)             | 451            | 68         | 274                  | 793            | 608          | 84                  | 91         | 54         | 378                             | -          | 1               | -           | -            | 185                |
| Referral under Employment Standards Act              | 1              | -          | 1                    | 1              | 1            | -                   | -          | 1          | -                               | -          | -               | -           | -            | -                  |
| Void Settlement - ES or EPFNA                        | 1              | -          | -                    | 1              | 1            | -                   | 1          | -          | -                               | -          | -               | -           | -            | -                  |
| <b>Essential Services</b>                            | 5              | -          | 4                    | 9              | 7            | 2                   | -          | 1          | 4                               | -          | -               | -           | -            | 2                  |
| Essential Services - Crown Employees                 | 2              | -          | 4                    | 6              | 5            | -                   | -          | 1          | 4                               | -          | -               | -           | -            | 1                  |
| Essential Services Agreement - Ambulance             | 3              | -          | -                    | 3              | 2            | 2                   | -          | -          | -                               | -          | -               | -           | -            | 1                  |
| <b>Health &amp; Safety Appeals</b>                   | 73             | 28         | 76                   | 177            | 117          | 7                   | 13         | 7          | 89                              | 1          | -               | -           | -            | 60                 |
| Appeal of Inspector's Order                          | 61             | 27         | 73                   | 161            | 102          | 2                   | 7          | 6          | 86                              | 1          | -               | -           | -            | 59                 |
| Suspension of Order                                  | 12             | 1          | 3                    | 16             | 15           | 5                   | 6          | 1          | 3                               | -          | -               | -           | -            | 1                  |
| <b>Interim Order</b>                                 | 25             | 3          | 4                    | 32             | 25           | 4                   | 7          | 1          | 13                              | -          | -               | -           | -            | 7                  |
| <b>Jurisdictional Dispute</b>                        | 61             | 13         | 126                  | 200            | 74           | 8                   | 10         | 5          | 38                              | 3          | -               | 3           | 7            | 126                |
| Jurisdictional Dispute                               | 1              | 9          | 103                  | 113            | 34           | 7                   | 5          | -          | 17                              | -          | -               | 1           | 4            | 79                 |
| Jurisdictional Dispute (Construction)                | 56             | 4          | 21                   | 81             | 37           | 1                   | 4          | 5          | 19                              | 3          | -               | 2           | 3            | 44                 |
| Jurisdictional Dispute (Industrial)                  | 4              | -          | 2                    | 6              | 3            | -                   | 1          | -          | 2                               | -          | -               | -           | -            | 3                  |
| <b>Ministerial Referrals</b>                         | 6              | -          | 2                    | 8              | 3            | -                   | -          | -          | -                               | -          | 3               | -           | -            | 5                  |
| Ministerial Referral (General)                       | 2              | -          | 2                    | 4              | 1            | -                   | -          | -          | -                               | -          | -               | -           | -            | 3                  |
| Ministerial Referral (HLDAA)                         | 4              | -          | -                    | 4              | 2            | -                   | -          | -          | -                               | -          | 2               | -           | -            | 2                  |
| <b>Public Sector Labour Relations Transition Act</b> | 6              | 1          | 13                   | 20             | 8            | 3                   | -          | -          | 5                               | -          | -               | -           | -            | 12                 |
| PSLRTA (Bargaining Units/Bargaining Agents)          | 6              | 1          | 11                   | 18             | 7            | 3                   | -          | -          | 4                               | -          | -               | -           | -            | 11                 |
| PSLRTA (Other)                                       | -              | -          | 2                    | 2              | 1            | -                   | -          | -          | 1                               | -          | -               | -           | -            | 1                  |
| <b>Sale of Business/Related Employer</b>             | 118            | 20         | 158                  | 296            | 168          | 47                  | 13         | 4          | 101                             | 2          | 1               | -           | -            | 128                |
| <b>School Board Collective Bargaining Act</b>        | -              | -          | 3                    | 3              | 3            | 2                   | 1          | -          | -                               | -          | -               | -           | -            | -                  |
| <b>Termination</b>                                   | 74             | 10         | 44                   | 128            | 83           | 38                  | 28         | 6          | 11                              | -          | -               | -           | -            | 45                 |
| Non-Construction Employer - Termination              | 2              | -          | 7                    | 9              | 2            | 1                   | -          | -          | 1                               | -          | -               | -           | -            | 7                  |
| Termination (Industrial)                             | 30             | 8          | 30                   | 68             | 56           | 32                  | 16         | 4          | 4                               | -          | -               | -           | -            | 12                 |
| Termination - Other (Non Vote-Based)                 | 10             | 1          | 3                    | 14             | 7            | 1                   | 2          | 1          | 3                               | -          | -               | -           | -            | 7                  |
| Termination (Construction - Open Period)             | 17             | -          | -                    | 17             | 3            | 1                   | -          | 1          | 1                               | -          | -               | -           | -            | 14                 |
| Termination (Construction)                           | 15             | 1          | 4                    | 20             | 15           | 3                   | 10         | -          | 2                               | -          | -               | -           | -            | 5                  |
| <b>Unfair Labour Practices</b>                       | 497            | 69         | 328                  | 894            | 546          | 24                  | 137        | 30         | 341                             | 12         | 2               | -           | -            | 348                |
| Failure to Comply with Settlement                    | 11             | 2          | 7                    | 20             | 12           | 3                   | 2          | -          | 7                               | -          | -               | -           | -            | 8                  |
| Duty of Fair Referral                                | 12             | 1          | 7                    | 20             | 13           | 1                   | 6          | 2          | 4                               | -          | -               | -           | -            | 7                  |
| Duty of Fair Representation                          | 174            | 31         | 100                  | 305            | 212          | 5                   | 100        | 15         | 90                              | -          | 2               | -           | -            | 93                 |
| Unfair Labour Practice                               | 288            | 35         | 213                  | 536            | 300          | 13                  | 28         | 13         | 234                             | 12         | -               | -           | -            | 236                |
| Unfair Labour Practice (Bad Faith)                   | 3              | -          | -                    | 3              | 1            | -                   | -          | -          | 1                               | -          | -               | -           | -            | 2                  |
| Unlawful Lockout                                     | 4              | -          | -                    | 4              | 3            | 1                   | -          | -          | 2                               | -          | -               | -           | -            | 1                  |
| Unlawful Strike                                      | 5              | -          | 1                    | 6              | 5            | 1                   | 1          | -          | 3                               | -          | -               | -           | -            | 1                  |
| <b>Unlawful Reprisals</b>                            | 180            | 13         | 58                   | 251            | 192          | 8                   | 14         | 6          | 162                             | 2          | -               | -           | -            | 59                 |
| Health and Safety - Inspector Referral               | 15             | 3          | 2                    | 20             | 13           | -                   | 4          | -          | 9                               | -          | -               | -           | -            | 7                  |
| Health and Safety Reprisal                           | 162            | 10         | 55                   | 227            | 178          | 8                   | 9          | 6          | 153                             | 2          | -               | -           | -            | 49                 |
| Public Service of Ontario Act                        | -              | -          | 1                    | 1              | 1            | -                   | 1          | -          | -                               | -          | -               | -           | -            | -                  |
| Reprisal - Environmental Bill of Rights Act          | 1              | -          | -                    | 1              | -            | -                   | -          | -          | -                               | -          | -               | -           | -            | 1                  |
| Reprisal - Environmental Protection Act              | 1              | -          | -                    | 1              | -            | -                   | -          | -          | -                               | -          | -               | -           | -            | 1                  |
| Smoke-Free Ontario Act                               | 1              | -          | -                    | 1              | -            | -                   | -          | -          | -                               | -          | -               | -           | -            | 1                  |
| <b>Votes</b>                                         | 6              | 1          | 3                    | 10             | 7            | 1                   | 5          | -          | 1                               | -          | -               | -           | -            | 3                  |
| Last Offer Vote                                      | 6              | 1          | 3                    | 10             | 7            | 1                   | 5          | -          | 1                               | -          | -               | -           | -            | 3                  |
| <b>Misc.</b>                                         | 43             | 2          | 16                   | 61             | 45           | 19                  | 2          | 2          | 22                              | -          | -               | -           | -            | 16                 |
| Consent to Institute Prosecution                     | 1              | -          | -                    | 1              | 1            | -                   | -          | -          | 1                               | -          | -               | -           | -            | -                  |
| Early Termination of Collective Agreement            | 3              | -          | 1                    | 4              | 4            | 4                   | -          | -          | -                               | -          | -               | -           | -            | -                  |
| Employee Status                                      | 8              | 2          | 7                    | 17             | 11           | 1                   | 1          | -          | 9                               | -          | -               | -           | -            | 6                  |
| Failure to Furnish Financial Statement               | 2              | -          | -                    | 2              | 1            | -                   | 1          | -          | -                               | -          | -               | -           | -            | 1                  |
| First Agreement Arbitration Direction                | 13             | -          | 3                    | 16             | 9            | 3                   | -          | 1          | 5                               | -          | -               | -           | -            | 7                  |
| Inadequate Financial Statement                       | 1              | -          | -                    | 1              | 1            | -                   | -          | -          | 1                               | -          | -               | -           | -            | -                  |
| Project Agreement                                    | 1              | -          | 2                    | 3              | 2            | -                   | -          | -          | 2                               | -          | -               | -           | -            | 1                  |
| Religious Exemption                                  | -              | -          | 1                    | 1              | 1            | -                   | -          | -          | 1                               | -          | -               | -           | -            | -                  |
| Sector Dispute (Construction)                        | 3              | -          | 2                    | 5              | 4            | -                   | -          | 1          | 3                               | -          | -               | -           | -            | 1                  |
| Successor Trade Union                                | 11             | -          | -                    | 11             | 11           | 11                  | -          | -          | -                               | -          | -               | -           | -            | -                  |

Figure 1

## Applications Received and Disposed of - 5 Year Comparison

The majority of cases filed in 2015/16 fall under 5 main categories:

1. Under the LRA, Certification and Termination of bargaining rights – 683 applications for certification and 74 applications for termination of bargaining rights
2. Also under the LRA, Contraventions of the Labour Relations Act – 497
3. Also under the LRA, Referrals of Construction Industry Grievances – 854
4. Under the ESA, Appeals of decisions of Employment Standards Officers – 773
5. Under the OHSA, Complaints under s. 50 and Appeals of Inspector's orders – 250

The number of applications for certification and termination of bargaining rights was 757 which is higher this year over last by 55 cases.

Complaints of the contravention of the Labour Relations Act (section 96) rose by nine applications.

The number of construction grievances filed (854) was down from last year by 142; this is the lowest number of grievances filed in the past five years.

The number of Employment Standards appeals declined to 773 dropping by 204 from the year before.

Complaints under the Occupational Health and Safety Act with respect to reprisals in the workplace in decreased slightly from last year to 177. Of the 177 applications filed this year, 15 were referred by inspectors (Figure 1). Appeals (including suspension applications) of health and safety inspectors' orders declined to the lowest level in five years at 73.



| Fiscal Years 2011-12 to 2015-16                                 | Number Received, Fiscal Year |              |              |              |              |              | Number Disposed of, Fiscal Year |              |              |              |              |              |
|-----------------------------------------------------------------|------------------------------|--------------|--------------|--------------|--------------|--------------|---------------------------------|--------------|--------------|--------------|--------------|--------------|
|                                                                 | Total                        | 2011-12      | 2012-13      | 2013-14      | 2014-15      | 2015-16      | Total                           | 2011-12      | 2012-13      | 2013-14      | 2014-15      | 2015-16      |
| <b>Type of Case</b>                                             | <b>18,785</b>                | <b>4,109</b> | <b>3,838</b> | <b>3,636</b> | <b>3,791</b> | <b>3,411</b> | <b>19,340</b>                   | <b>3,425</b> | <b>4,109</b> | <b>3,864</b> | <b>3,983</b> | <b>3,964</b> |
| Accreditation (Construction)                                    | 12                           | 4            | 2            | -            | 2            | 4            | 9                               | -            | 2            | 4            | -            | 3            |
| Certification                                                   | 3,325                        | 592          | 719          | 698          | 632          | 684          | 3,679                           | 549          | 669          | 742          | 901          | 818          |
| College Vote                                                    | 2                            | -            | -            | -            | 2            | -            | 3                               | -            | -            | -            | 3            | -            |
| Consent to Institute Prosecution                                | 10                           | 5            | 3            | 1            | -            | 1            | 13                              | 7            | 3            | 2            | -            | 1            |
| Construction Grievance                                          | 4,754                        | 968          | 949          | 987          | 996          | 854          | 4,467                           | 475          | 976          | 996          | 1,072        | 948          |
| Contravention of Act                                            | 1,801                        | 599          | 687          | 515          | -            | -            | 1,873                           | 513          | 735          | 625          | -            | -            |
| Duty of Fair Referral                                           | 21                           | -            | -            | -            | 9            | 12           | 14                              | -            | -            | -            | 2            | 12           |
| Duty of Fair Representation                                     | 341                          | -            | -            | -            | 167          | 174          | 336                             | -            | -            | -            | 152          | 184          |
| Early Termination of Collective Agreement                       | 36                           | 11           | 7            | 7            | 8            | 3            | 36                              | 11           | 7            | 5            | 9            | 4            |
| Employee Status                                                 | 44                           | 7            | 13           | 9            | 7            | 8            | 50                              | 10           | 15           | 7            | 8            | 10           |
| Employment Standards (Appeal)                                   | 4,527                        | 1,304        | 743          | 730          | 977          | 773          | 4,938                           | 1,370        | 987          | 721          | 816          | 1,044        |
| Essential Services - Crown Employees                            | 6                            | -            | -            | -            | 4            | 2            | 6                               | -            | -            | -            | 1            | 5            |
| Essential Services Agreement - Ambulance                        | 17                           | 5            | 5            | 1            | 3            | 3            | 15                              | 4            | 4            | 1            | 4            | 2            |
| Exemption From Union Security Provision in Collective Agreement | 3                            | -            | 2            | 1            | -            | -            | 10                              | -            | 10           | -            | -            | -            |
| Failure to Comply with Settlement                               | 26                           | -            | -            | -            | 15           | 11           | 28                              | -            | -            | -            | 16           | 12           |
| Failure to Furnish Financial Statement                          | 10                           | 2            | 2            | 4            | -            | 2            | 8                               | 1            | 1            | 4            | 1            | 1            |
| First Agreement Arbitration Direction                           | 57                           | 13           | 12           | 13           | 6            | 13           | 62                              | 9            | 20           | 11           | 13           | 9            |
| Foreign Nationals - Appeal                                      | 1                            | -            | -            | -            | 1            | -            | -                               | -            | -            | -            | 4            | -            |
| Health and Safety - Appeals                                     | 454                          | 90           | 94           | 92           | 105          | 73           | 436                             | 63           | 99           | 99           | 83           | 92           |
| Health and Safety - Inspector Referrals                         | 29                           | -            | -            | -            | 14           | 15           | 28                              | -            | -            | -            | 16           | 12           |
| Health and Safety - Reprisals                                   | 839                          | 123          | 207          | 179          | 168          | 162          | 854                             | 137          | 212          | 174          | 161          | 170          |
| Inadequate Financial Statement                                  | 1                            | -            | -            | -            | -            | 1            | -                               | -            | -            | -            | -            | 1            |
| Interim Order                                                   | 56                           | -            | -            | -            | 31           | 25           | 53                              | -            | -            | -            | 31           | 22           |
| Jurisdictional Dispute                                          | 376                          | 115          | 73           | 52           | 75           | 61           | 362                             | 29           | 77           | 103          | 91           | 62           |
| Last Offer Vote                                                 | 58                           | 17           | 9            | 12           | 14           | 6            | 55                              | 11           | 8            | 12           | 16           | 8            |
| Ministerial Referrals                                           | 44                           | 22           | 6            | 6            | 4            | 6            | 43                              | 20           | 8            | 5            | 7            | 3            |
| Other Case Types                                                | 63                           | 29           | 21           | 13           | -            | -            | 64                              | 30           | 16           | 18           | -            | -            |
| Project Agreement                                               | 8                            | 3            | 2            | 1            | 1            | 1            | 10                              | 1            | 2            | 3            | 2            | 2            |
| Public Sector Labour Relations Transition Act                   | 61                           | 13           | 12           | 13           | 17           | 6            | 61                              | 14           | 7            | 20           | 13           | 7            |
| Religious Exemption                                             | 2                            | -            | -            | -            | 2            | -            | 3                               | -            | -            | -            | 2            | 1            |
| Reprisal - Environmental Bill of Rights Act                     | 6                            | -            | 3            | 1            | 1            | 1            | 6                               | -            | 4            | 1            | 1            | -            |
| Reprisal - Environmental Protection Act                         | 1                            | -            | -            | -            | -            | 1            | 0                               | -            | -            | -            | -            | -            |
| Right of Access                                                 | 2                            | -            | 2            | -            | -            | -            | 2                               | -            | 1            | 1            | -            | -            |
| Sale of Business/Related Employer                               | 643                          | 111          | 129          | 135          | 150          | 118          | 643                             | 71           | 143          | 126          | 150          | 153          |
| School Board Collective Bargaining Act                          | 7                            | -            | -            | -            | 7            | -            | 7                               | -            | -            | -            | 4            | 3            |
| Sector Dispute (Construction)                                   | 13                           | 3            | 2            | 4            | 1            | 3            | 12                              | 2            | 3            | 2            | 2            | 3            |
| Successor Trade Union                                           | 48                           | 3            | 3            | 29           | 2            | 11           | 49                              | 1            | 4            | 22           | 11           | 11           |
| Termination                                                     | 448                          | 67           | 119          | 118          | 70           | 74           | 485                             | 93           | 84           | 146          | 83           | 79           |
| Unfair Labour Practice                                          | 583                          | -            | -            | -            | 290          | 293          | 570                             | -            | -            | -            | 297          | 273          |
| Unlawful Lockout                                                | 11                           | 1            | 1            | 5            | -            | 4            | 9                               | -            | 1            | 4            | 1            | 3            |
| Act                                                             | 2                            | -            | -            | -            | 2            | -            | 2                               | -            | -            | -            | 1            | 1            |
| Unlawful Reprisal - Smoke-Free Ontario Act                      | 6                            | 2            | 2            | -            | 1            | 1            | 5                               | 2            | 2            | -            | 1            | -            |
| Unlawful Strike                                                 | 31                           | -            | 9            | 10           | 7            | 5            | 34                              | 2            | 9            | 10           | 8            | 5            |

Figure 2

# Cases Resolved Without a Final 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. This past year, 86% of all closed cases were resolved without a final hearing including those settled or withdrawn through mediation.

| Case Type Description                                | Total Closed | Settled      | % of Cases Settled | To Final Hearing/ Consultation |
|------------------------------------------------------|--------------|--------------|--------------------|--------------------------------|
| <b>Totals:</b>                                       | <b>3,953</b> | <b>3,405</b> | <b>86.1%</b>       | <b>548</b>                     |
| <b>Certification</b>                                 | <b>818</b>   | <b>702</b>   | <b>85.8%</b>       | <b>116</b>                     |
| Certification (Card-Based - Construction)            | 372          | 307          | 82.5%              | 65                             |
| Certification (Construction)                         | 50           | 34           | 68.0%              | 16                             |
| Certification (Industrial)                           | 396          | 361          | 91.2%              | 35                             |
| <b>Construction Grievance</b>                        | <b>948</b>   | <b>848</b>   | <b>89.5%</b>       | <b>100</b>                     |
| <b>Employment Standards</b>                          | <b>1044</b>  | <b>872</b>   | <b>83.5%</b>       | <b>172</b>                     |
| Employment Standards - Appeal (Employer)             | 609          | 518          | 85.1%              | 91                             |
| Employment Standards - Appeal (Director)             | 101          | 83           | 82.2%              | 18                             |
| Employment Standards - Appeal (Employee)             | 332          | 270          | 81.3%              | 62                             |
| Referral under Employment Standards Act              | 1            | 0            | 0.0%               | 1                              |
| Void Settlement - ES or EPFNA                        | 1            | 1            | 100.0%             | 0                              |
| <b>Essential Services</b>                            | <b>7</b>     | <b>6</b>     | <b>85.7%</b>       | <b>1</b>                       |
| Essential Services - Crown Employees                 | 5            | 4            | 80.0%              | 1                              |
| Essential Services Agreement - Ambulance             | 2            | 2            | 100.0%             | 0                              |
| <b>Health &amp; Safety Appeals</b>                   | <b>92</b>    | <b>85</b>    | <b>92.4%</b>       | <b>7</b>                       |
| <b>Interim Order</b>                                 | <b>22</b>    | <b>17</b>    | <b>77.3%</b>       | <b>5</b>                       |
| <b>Jurisdictional Dispute</b>                        | <b>62</b>    | <b>35</b>    | <b>56.5%</b>       | <b>27</b>                      |
| Jurisdictional Dispute                               | 26           | 11           | 42.3%              | 15                             |
| Jurisdictional Dispute (Construction)                | 33           | 22           | 66.7%              | 11                             |
| Jurisdictional Dispute (Industrial)                  | 3            | 2            | 66.7%              | 1                              |
| <b>Ministerial Referrals</b>                         | <b>3</b>     | <b>2</b>     | <b>66.7%</b>       | <b>1</b>                       |
| Ministerial Referral (General)                       | 1            | 1            | 100.0%             | 0                              |
| Ministerial Referral (HLDA)                          | 2            | 1            | 50.0%              | 1                              |
| <b>Public Sector Labour Relations Transition Act</b> | <b>7</b>     | <b>7</b>     | <b>100.0%</b>      | <b>0</b>                       |
| PSLRTA (Other)                                       | 1            | 1            | 100.0%             | 0                              |
| PSLRTA (Bargaining Units/Bargaining Agents)          | 6            | 6            | 100.0%             | 0                              |
| <b>Sale of Business/Related Employer</b>             | <b>153</b>   | <b>124</b>   | <b>81.0%</b>       | <b>29</b>                      |
| <b>School Board Collective Bargaining Act</b>        | <b>3</b>     | <b>0</b>     | <b>0.0%</b>        | <b>3</b>                       |
| <b>Termination</b>                                   | <b>79</b>    | <b>69</b>    | <b>87.3%</b>       | <b>10</b>                      |
| Non-Construction Employer - Termination              | 2            | 1            | 50.0%              | 1                              |
| Termination (Industrial)                             | 54           | 47           | 87.0%              | 7                              |
| Termination - Other (Non Vote-Based)                 | 6            | 5            | 83.3%              | 1                              |
| Termination (Construction)                           | 14           | 13           | 92.9%              | 1                              |
| Termination (Construction - Open Period)             | 3            | 3            | 100.0%             | 0                              |
| <b>Unfair Labour Practices</b>                       | <b>489</b>   | <b>429</b>   | <b>87.7%</b>       | <b>60</b>                      |
| Duty of Fair Referral                                | 12           | 9            | 75.0%              | 3                              |
| Duty of Fair Representation                          | 184          | 150          | 81.5%              | 34                             |
| Failure to Comply with Settlement                    | 12           | 11           | 91.7%              | 1                              |
| Unfair Labour Practice                               | 273          | 254          | 93.0%              | 19                             |
| Unlawful Lockout                                     | 3            | 2            | 66.7%              | 1                              |
| Unlawful Strike                                      | 5            | 3            | 60.0%              | 2                              |
| <b>Unlawful Reprisals</b>                            | <b>183</b>   | <b>169</b>   | <b>92.3%</b>       | <b>14</b>                      |
| Health and Safety - Reprisal                         | 170          | 158          | 92.9%              | 12                             |
| Health and Safety - Inspector Referral               | 12           | 11           | 91.7%              | 1                              |
| Public Service of Ontario Act                        | 1            | 0            | 0.0%               | 1                              |
| <b>Misc</b>                                          | <b>43</b>    | <b>40</b>    | <b>93.0%</b>       | <b>3</b>                       |
| Consent to Institute Prosecution                     | 1            | 1            | 100.0%             | 0                              |
| Early Termination of Collective Agreement            | 4            | 4            | 100.0%             | 0                              |
| Employee Status                                      | 10           | 9            | 90.0%              | 1                              |
| Failure to Furnish Financial Statement               | 1            | 1            | 100.0%             | 0                              |
| First Agreement Arbitration Direction                | 9            | 7            | 77.8%              | 2                              |
| Inadequate Financial Statement                       | 1            | 1            | 100.0%             | 0                              |
| Project Agreement                                    | 2            | 2            | 100.0%             | 0                              |
| Religious Exemption                                  | 1            | 1            | 100.0%             | 0                              |
| Sector Dispute (Construction)                        | 3            | 3            | 100.0%             | 0                              |
| Successor Trade Union                                | 11           | 11           | 100.0%             | 0                              |

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 normally apply almost exclusively to non-construction sectors and to termination applications. This year, the triennial “open period” in the construction industry began in March 2016 which increased the number of votes held.

The Board received a total of 684 applications for certification and 74 applications for termination of bargaining rights (Figure 1).

The Board held a total of 307 votes in 2015/16, with 9896 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. Of cases disposed of during 2015/16, the majority of certification applications were successful as were the majority of termination applications (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      |
| <b>Totals</b>          | <b>887</b>                    | <b>510</b> | <b>377</b>  | <b>307</b>                      | <b>14,542</b>               | <b>9,896</b>                | <b>58.8%</b> | <b>41.2%</b> |
| <b>Certifications:</b> | <b>817</b>                    | <b>474</b> | <b>343</b>  | <b>282</b>                      | <b>13,389</b>               | <b>9,276</b>                | <b>59.6%</b> | <b>40.4%</b> |
| <b>Construction:</b>   | <b>422</b>                    | <b>247</b> | <b>175</b>  | <b>26</b>                       | <b>389</b>                  | <b>127</b>                  | <b>48.8%</b> | <b>51.2%</b> |
| One Union              | 317                           | 202        | 115         | 5                               | 179                         | 20                          | 15.0%        | 85.0%        |
| Two Unions             | 87                            | 38         | 49          | 21                              | 210                         | 107                         | 55.1%        | 44.9%        |
| Three Unions           | 18                            | 7          | 11          |                                 |                             |                             |              |              |
| <b>Industrial:</b>     | <b>395</b>                    | <b>227</b> | <b>168</b>  | <b>256</b>                      | <b>13,000</b>               | <b>9,149</b>                | <b>59.8%</b> | <b>40.2%</b> |
| One Union              | 336                           | 199        | 137         | 217                             | 10,382                      | 7,442                       | 60.5%        | 39.5%        |
| Two Unions             | 47                            | 24         | 23          | 36                              | 2,572                       | 1,417                       | 58.4%        | 41.6%        |
| Three Unions           | 12                            | 4          | 8           | 3                               | 46                          | 290                         | 48.3         | 51.7         |
| <b>Termination:</b>    |                               |            |             |                                 |                             |                             |              |              |
| One Union              | 70                            | 36         | 34          | 25                              | 1,153                       | 620                         | 46.0%        | 54.0%        |

\* 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 448 certificates issued, 271 bargaining units were composed of 2 - 9 employees (226 of those were in the construction industry), and at the other extreme nine were bargaining units of 200 - 499 employees (only in the industrial setting) (Figure 5).

Of the non-construction certification applications, a minority were in the manufacturing industry and the majority related to the broader public sector, service and non-manufacturing industries (Figure 5).

| Employees      | Total      |               | Construction |              | Industrial |              |
|----------------|------------|---------------|--------------|--------------|------------|--------------|
|                | Cases      | Employees     | Cases        | Employees    | Cases      | Employees    |
| <b>Total:</b>  | <b>448</b> | <b>10,147</b> | <b>261</b>   | <b>1,663</b> | <b>187</b> | <b>8,484</b> |
| <b>2-9</b>     | <b>271</b> | <b>1,135</b>  | 226          | 902          | 45         | 233          |
| <b>10-19</b>   | <b>62</b>  | <b>881</b>    | 22           | 324          | 40         | 557          |
| <b>20-39</b>   | <b>54</b>  | <b>1,443</b>  | 9            | 221          | 45         | 1,222        |
| <b>40-99</b>   | <b>42</b>  | <b>2,656</b>  | 4            | 216          | 38         | 2,440        |
| <b>100-199</b> | <b>10</b>  | <b>1,486</b>  | -            | -            | 10         | 1,486        |
| <b>200-499</b> | <b>9</b>   | <b>2,546</b>  | -            | -            | 9          | 2,546        |
| <b>500 +</b>   | <b>0</b>   | <b>0</b>      | -            | -            | -          | -            |

Figure 5

92% of all non-construction certification votes were held within five working days of application, about 96% within seven days and approximately 97% within eight days of application. Termination applications took slightly longer, largely because of bargaining unit and notice issues: 68% were held within five days of application, 98% within seven days of application (Figures 6).

| Number of Days | Total      |         | Industrial |         | Construction |         | Termination Cases to Vote |         |
|----------------|------------|---------|------------|---------|--------------|---------|---------------------------|---------|
|                | Cases      | % of    | Cases      | % of    | Cases        | % of    | Cases                     | % of    |
|                | <b>334</b> |         | <b>302</b> |         | <b>32</b>    |         | <b>51</b>                 |         |
| <b>&lt; 5</b>  | 1          | 0.30%   |            | 0.00%   | 1            | 3.13%   | 2                         | 3.92%   |
| <b>5</b>       | 279        | 84.13%  | 277        | 91.72%  | 2            | 12.50%  | 31                        | 68.63%  |
| <b>6</b>       | 22         | 90.42%  | 5          | 93.38%  | 17           | 62.50%  | 8                         | 80.39%  |
| <b>7</b>       | 16         | 95.21%  | 10         | 96.69%  | 6            | 81.25%  | 9                         | 98.04%  |
| <b>8</b>       | 2          | 95.81%  | 2          | 97.35%  | 0            | 81.25%  | 0                         | 98.04%  |
| <b>9</b>       | 2          | 96.41%  | 1          | 97.68%  | 1            | 84.38%  | 0                         | 98.04%  |
| <b>10</b>      | 1          | 96.71%  | 1          | 98.01%  |              | 84.38%  | 0                         | 98.04%  |
| <b>11-15</b>   | 0          | 96.71%  | 0          | 98.01%  |              | 84.38%  | 1                         | 100.00% |
| <b>16-20</b>   | 1          | 97.01%  | 1          | 98.34%  |              | 84.38%  | 0                         | 100.00% |
| <b>21+</b>     | 10         | 100.00% | 5          | 100.00% | 5            | 100.00% | 0                         | 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 2015-2016, the Board received 497 complaints under this section, an increase of 9 from last year (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, 328 cases were carried over from 2014-2015 and 69 were re-opened. Of the 894 cases processed, there were 546 file closures, 348 cases were pending on March 31, 2016 (Figure 1). Of 489 files closed on a final basis, approximately 88% were resolved without a final 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 186. Six were granted, 106 were dismissed and 17 were terminated. Of 196 files closed, 82% were resolved without a hearing. Only 34 went to consultation/hearing. 100 were pending as of March 31, 2016 (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 2015/16, the Board received 25 applications for interim orders. During the year, four interim orders were granted, seven were dismissed and one was terminated. Seventeen files were resolved without a final hearing. Seven were pending on March 31, 2016.

## Construction Industry Grievances

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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.

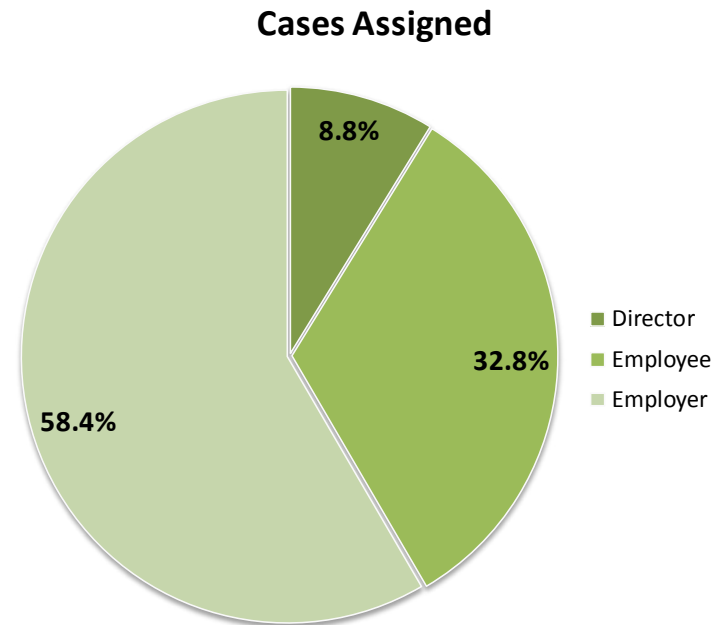
In 2015-2016, the Board received 854 cases under this section (Figure 1). The principal issues in these grievances were alleged failure by employers to make required contributions to health and welfare, pension and vacation funds, failure to deduct union dues, and alleged violation of the subcontracting and hiring arrangements in the collective agreement.

In addition to the cases received, 383 were carried over from 2014-15 and 228 were re-opened. Of the total 1,465 processed, there were 1133 file closures. Awards were made by the Board in 271 cases, 25 cases were dismissed, 24 were terminated and 848 or 89.5% were resolved without a final hearing. 100 cases were pending on March 31, 2016. (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 1425 cases during 2015-2016, which includes 773 new cases filed, 546 cases from the previous year and 106 re-opened files. Of the 1080 case closures, 141 were granted, 195 were dismissed, and 98 were terminated. 345 cases were pending on March 31, 2016. (Figure 1) Approximately 58% of the appeals were filed by the employer. Eighty-four percent or 872 of individual cases closed were resolved without a hearing and 172 cases went to hearing.



# Occupational Health and Safety Act

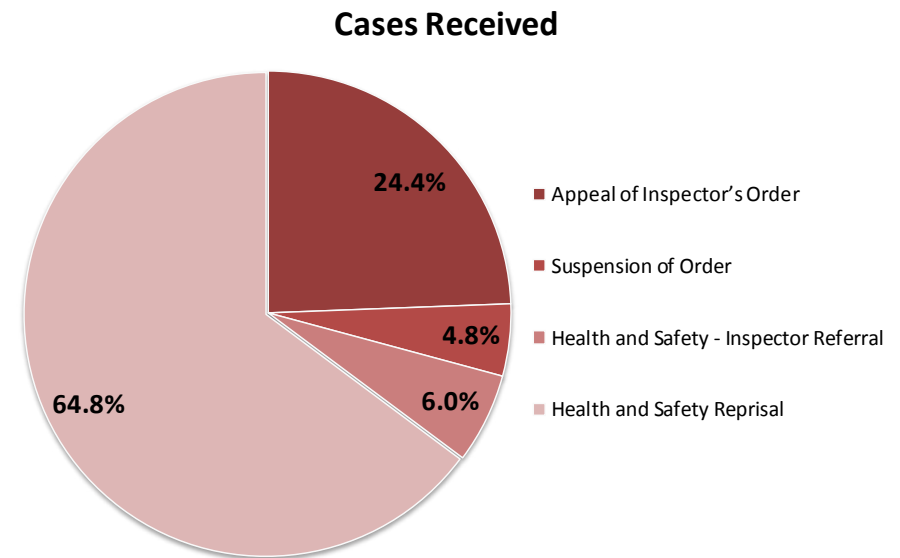
In 2015-2016, the Board received 177 complaints under Section 50 of the Occupational Health and Safety Act alleging wrongful discipline or discharge for acting in compliance with the Act. Fifty-seven cases were carried over from 2014-15 and 13 were re-opened for a total of 247 cases (Figure 1). Twenty of those applications were referred by health and safety inspectors. (Figure 1)

Of the total 182 individual cases closed, 169 cases (92%) were resolved by the parties prior to a final hearing (Figure 3). Nineteen cases were dismissed or terminated, and eight were granted. Fifty-six cases were pending on March 31, 2016. (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.

161 appeals were dealt with by the Board in 2015-2016. Two appeals were granted, seven were dismissed, 86 cases were settled, 6 cases were terminated, and 59 cases were pending on March 31, 2016 (Figure 1). Of 92 individual files closed, 92% were resolved prior to a hearing and seven were scheduled for final hearing.





### 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. Three applications were carried over from the previous year and all were disposed of in 2015/16: two were granted and one was dismissed.

### Colleges Collective Bargaining Act

The Colleges Collective Bargaining Act, 2008 extended collective bargaining to part-time and sessional employees of colleges of applied arts and technology. The CCBA, 2008 addresses unfair labour practice complaints and provides for collective negotiation, conciliation and mediation processes that are similar to those set out in the Labour Relations Act, 1995. In 2015/16 there were two applications (unfair labour practice complaints). Both files were closed after one application was resolved without a hearing and the other was granted. One application for certification was received and remained pending on March 31, 2016.

### Essential Services

Two applications were received under the Crown Employees Collective Bargaining Act in 2015/16 and four were carried over from the previous year. One was terminated and four were settled without a final hearing. One remained pending on March 31 2016. Three cases were received under the Ambulance Services Collective Bargaining Act; two were granted and one remained pending at the end of the year.

### 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 ten requests during the fiscal year. The employees voted to reject the collective agreement in five cases. One case was settled or withdrawn, one was accepted and three cases were pending on March 31, 2016. (Figure 1)

### Declaration of Successor Trade Union

Eleven applications for declaration of successor trade union were received. All were granted or partially granted and no cases remained pending as of March 31st, 2016. (Figure 1)

### Declaration of Successor or Common Employer Status

In 2015-2016, the Board had a caseload of 296 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 47 cases, 13 applications were dismissed, 4 cases were terminated and 101 cases were settled or withdrawn and 128 remained pending on March 31, 2016. 81% of individual cases closed were resolved without a final hearing. (Figure 1 and 3)

## **Declaration/Direction of Unlawful Strike/Lock-out**

In 2015-2016, the Board received five applications and one file was carried over seeking a declaration under section 100 regarding an alleged unlawful strike by employees. One application was granted, three cases settled without a hearing and one was dismissed. One case was pending on March 31, 2016.

Four applications for a declaration under section 101 regarding an alleged unlawful lock-out by an employer were received. One was granted, two were resolved without a final hearing and one was pending at the end of the year. (Figure 1)

## **Religious Exemption from Union Security Provision in Collective Agreement**

No 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. The sole application was resolved without a final hearing. (Figure 1)

## **Early Termination of Collective Agreements**

Four applications, including three 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 all cases. (Figure 1)

## **Jurisdictional Disputes**

200 applications were before the Board under section 99 of the Act involving union work jurisdiction. Eight applications were granted, ten cases were dismissed, five were terminated and 126 cases were pending on March 31, 2016. (Figure 1) Thirty five individual cases closed were resolved prior to a final hearing date.

## **Referral on Employee Status**

The Board had 17 applications before it under section 114(2) of the Act, seeking decisions on the status of individuals as employees under the Act. Eleven cases closed, 9 of which were resolved by the parties before a hearing, one was granted, one was dismissed and six cases were pending on March 31, 2016. (Figure 1)

## **Referrals by Minister of Labour**

In 2015-2016, the Board dealt with eight 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. Three applications were resolved without a hearing, and five remain pending on March 31, 2016. (Figure 1)

## **First Agreement Arbitration**

In 2015-2016, the Board processed sixteen applications for directions to settle first agreements by arbitration and seven remained pending on March 31, 2016. Seven files (78%) were resolved without a final hearing, three were granted and one terminated. (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 2015-2016, the Board processed 20 applications under the Public Sector Labour Relations Transition Act, 1997 including six new applications. Three applications were granted and seven individual files were disposed of without a final hearing. Twelve cases were pending on March 31, 2016. (Figure 1)

## Time Required to Dispose of Applications, By Major Case Type

|                 | <b>All Cases</b> |              | <b>Certification</b> |            | <b>Contravention</b> |            | <b>Health &amp; Safety</b> |       | <b>Employment Standards</b> |       | <b>Construction Industry Grievances</b> |       | <b>All Other Cases</b> |       |
|-----------------|------------------|--------------|----------------------|------------|----------------------|------------|----------------------------|-------|-----------------------------|-------|-----------------------------------------|-------|------------------------|-------|
| Time Taken      | Cumulative %     |              | Cumulative %         |            | Cumulative %         |            | Cumulative %               |       | Cumulative %                |       | Cumulative %                            |       | Cumulative %           |       |
| (Calendar Days) | Dispositions     |              | Dispositions         |            | Dispositions         |            | Dispositions               |       | Dispositions                |       | Dispositions                            |       | Dispositions           |       |
| <b>Total</b>    | <b>3888</b>      | <b>1045</b>  | <b>483</b>           | <b>270</b> | <b>1016</b>          | <b>932</b> | <b>142</b>                 |       |                             |       |                                         |       |                        |       |
| <b>0-7</b>      | <b>103</b>       | <b>2.6</b>   | 49                   | 4.7        | 15                   | 3.1        | 2                          | 0.7   | 1                           | 0.1   | 30                                      | 3.2   | 6                      | 4.2   |
| <b>8-14</b>     | <b>332</b>       | <b>11.2</b>  | 52                   | 9.7        | 10                   | 5.2        | 8                          | 3.7   | 4                           | 0.5   | 252                                     | 30.3  | 6                      | 8.5   |
| <b>15-21</b>    | <b>168</b>       | <b>15.5</b>  | 54                   | 14.8       | 17                   | 8.7        | 9                          | 7.0   | 6                           | 1.1   | 74                                      | 38.2  | 8                      | 14.1  |
| <b>22-28</b>    | <b>101</b>       | <b>18.1</b>  | 18                   | 16.6       | 16                   | 12.0       | 11                         | 11.1  | 10                          | 2.1   | 35                                      | 42.0  | 11                     | 21.8  |
| <b>29-35</b>    | <b>115</b>       | <b>21.1</b>  | 19                   | 18.4       | 14                   | 14.9       | 31                         | 22.6  | 14                          | 3.4   | 34                                      | 45.6  | 3                      | 23.9  |
| <b>36-42</b>    | <b>138</b>       | <b>24.6</b>  | 20                   | 20.3       | 19                   | 18.8       | 30                         | 33.7  | 35                          | 6.9   | 30                                      | 48.8  | 4                      | 26.8  |
| <b>43-49</b>    | <b>93</b>        | <b>27.0</b>  | 9                    | 21.1       | 18                   | 22.6       | 19                         | 40.7  | 23                          | 9.2   | 23                                      | 51.3  | 1                      | 27.5  |
| <b>50-56</b>    | <b>113</b>       | <b>29.9</b>  | 24                   | 23.4       | 12                   | 25.1       | 16                         | 46.7  | 48                          | 13.9  | 11                                      | 52.5  | 2                      | 28.9  |
| <b>57-63</b>    | <b>85</b>        | <b>32.1</b>  | 14                   | 24.8       | 10                   | 27.1       | 5                          | 48.5  | 40                          | 17.8  | 11                                      | 53.6  | 5                      | 32.4  |
| <b>64-70</b>    | <b>83</b>        | <b>34.2</b>  | 15                   | 26.2       | 15                   | 30.2       | 6                          | 50.7  | 31                          | 20.9  | 15                                      | 55.3  | 1                      | 33.1  |
| <b>71-77</b>    | <b>71</b>        | <b>36.1</b>  | 20                   | 28.1       | 10                   | 32.3       | 6                          | 53.0  | 24                          | 23.2  | 10                                      | 56.3  | 1                      | 33.8  |
| <b>78-84</b>    | <b>99</b>        | <b>38.6</b>  | 34                   | 31.4       | 13                   | 35.0       | 6                          | 55.2  | 40                          | 27.2  | 5                                       | 56.9  | 1                      | 34.5  |
| <b>85-91</b>    | <b>70</b>        | <b>40.4</b>  | 22                   | 33.5       | 8                    | 36.6       | 9                          | 58.5  | 27                          | 29.8  | 4                                       | 57.3  | 0                      | 34.5  |
| <b>92-98</b>    | <b>72</b>        | <b>42.3</b>  | 18                   | 35.2       | 11                   | 38.9       | 3                          | 59.6  | 30                          | 32.8  | 8                                       | 58.2  | 2                      | 35.9  |
| <b>99-105</b>   | <b>47</b>        | <b>43.5</b>  | 16                   | 36.7       | 9                    | 40.8       | 2                          | 60.4  | 14                          | 34.2  | 5                                       | 58.7  | 1                      | 36.6  |
| <b>106-126</b>  | <b>164</b>       | <b>47.7</b>  | 42                   | 40.8       | 19                   | 44.7       | 6                          | 62.6  | 70                          | 41.0  | 22                                      | 61.1  | 5                      | 40.1  |
| <b>127-147</b>  | <b>133</b>       | <b>51.1</b>  | 33                   | 43.9       | 27                   | 50.3       | 5                          | 64.4  | 55                          | 46.5  | 5                                       | 61.6  | 8                      | 45.8  |
| <b>148-168</b>  | <b>127</b>       | <b>54.4</b>  | 18                   | 45.6       | 22                   | 54.9       | 10                         | 68.1  | 57                          | 52.1  | 15                                      | 63.2  | 5                      | 49.3  |
| <b>168+</b>     | <b>1774</b>      | <b>100.0</b> | 568                  | 100.0      | 218                  | 100.0      | 86                         | 100.0 | 487                         | 100.0 | 343                                     | 100.0 | 72                     | 100.0 |

Figure 7

## Court Activity

On April 1, 2015, there were sixteen Board matters pending before the Courts:

- Fifteen of them at Divisional Court (including two on reserve);
- One matter seeking leave at the Supreme Court of Canada: *EllisDon*.

During the 2015-2016 fiscal year, there were eighteen new applications for judicial review of Board decisions filed with the Divisional Court.

A total of sixteen applications for judicial review were disposed of by the Divisional Court. Thirteen were dismissed on the merits; one application was dismissed for delay (*McCabe*) and one was abandoned (*Lee*). One application for judicial review was granted (*Warren*).

Three motions for leave to the Court of Appeal were filed during the fiscal year: *Hiamey, Warren* (application for leave filed by the NHL) and *LIUNA (Toran)*. Mr. Hiamey's motion was dismissed but he has filed a new motion seeking an extension to re-open his leave application. The NHL's leave application was also dismissed. The *LIUNA* application is pending.

Last year, the Court of Appeal had restored the Board's decision in *Sheet Metal Workers (EllisDon)* and the employer sought leave to the Supreme Court of Canada (pending as at March 31, 2015). *EllisDon's* application for leave to the SCC was dismissed.

Seventeen applications for judicial review remained outstanding at Divisional Court on March 31, 2016.

| Type of Case                            | Caseload  |                       |           | Disposed of |          |                |           | Pending March 31, 2016 |
|-----------------------------------------|-----------|-----------------------|-----------|-------------|----------|----------------|-----------|------------------------|
|                                         | Total     | Pending April 1, 2015 | Received  | Total       | Granted  | Dismissed      | Abandoned |                        |
| <b>Total</b>                            | <b>37</b> | <b>16</b>             | <b>21</b> | <b>19</b>   | <b>1</b> | <b>17</b>      | <b>1</b>  | <b>19</b>              |
| Divisional Court (Merits)               | 33        | 15                    | 18        | 16          | 1        | 14             | 1         | 17                     |
| Divisional Court (Stay)                 | 0         | 0                     | 0         | 0           | 0        | 0              | 0         | 0                      |
| Ontario Court of Appeal (Seeking Leave) | 3         | 0                     | 3         | 2           | 0        | 2 <sup>i</sup> | 0         | 2 <sup>ii</sup>        |
| Ontario Court of Appeal (Merits)        | 0         | 0                     | 0         | 0           | 0        | 0              | 0         | 0                      |
| Supreme Court of Canada (Seeking Leave) | 1         | 1                     | 0         | 1           | 0        | 1              | 0         | 0                      |
| Supreme Court of Canada (Merits)        | 0         | 0                     | 0         | 0           | 0        | 0              | 0         | 0                      |

<sup>i</sup> One applicant has brought a motion for an extension to re-open his dismissed leave application.

<sup>ii</sup> See previous Footnote

Figure 8

## 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 Board's case management system and the utilization of tri-partite panels in adjudicative hearings. The total annual remuneration for all OIC appointees was \$2,610,346.

| Account                        | Year-end Budget<br>incl. lease | Year-end Actuals | Variance       | %<br>Variance |
|--------------------------------|--------------------------------|------------------|----------------|---------------|
| Salaries & Wages               | 7,997.9                        | 7,517.4          | 480.5          | 6.0%          |
| Benefits                       | 962.8                          | 978.2            | (15.4)         | -1.6%         |
| <b>ODOE:</b>                   |                                |                  |                |               |
| Transportation & Communication | 448.9                          | 302.1            | 146.8          | 32.7%         |
| Services                       | 3,430.1                        | 3,785.5          | (355.4)        | -10.4%        |
| Supplies & Equipment           | 82.2                           | 271.4            | (189.2)        | -230.2%       |
| <b>Total ODOE</b>              | <b>3,961.2</b>                 | <b>4,359.0</b>   | <b>(397.8)</b> | <b>-10.0%</b> |
| <b>Total</b>                   | <b>12,921.9</b>                | <b>12,854.6</b>  | <b>67.3</b>    | <b>0.5%</b>   |

### Fiscal Year – 2015/2016

All figures in \$000.0 thousand

| Non-Tax Revenue        | 2015-2016 Revenue |
|------------------------|-------------------|
| Construction Grievance | 480.2             |
| Publications           | 0.0               |
| Subscriptions          | 10.2              |
| <b>Total</b>           | <b>480.2</b>      |

## 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.

|                                |                                                                                               |
|--------------------------------|-----------------------------------------------------------------------------------------------|
| <b>Standard / Target:</b>      | Less than 2% variance between year-end allocation and expenditure.                            |
| <b>2015-2016 Commitments:</b>  | Less than 2% variance between year-end allocation and expenditure.                            |
| <b>2015-2016 Achievements:</b> | <b>Actual:</b> 0.5% variance<br>Approved budget: \$12,921.9<br>Actual expenditure: \$12,854.8 |

**Program Effectiveness Measures:** Meeting legislated timelines.

|                                |                                                                                                                                                      |
|--------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Standard / Target:</b>      | 90% Industrial certification votes held within 5-7 days.<br>95% held within 7-10 days.<br>5% or less held within more than 10 days.                  |
| <b>2015-2016 Commitments:</b>  | 90% Industrial certification votes held within 5-7 days.<br>95% held within 7-10 days.<br>5% or less held within more than 10days.                   |
| <b>2015-2016 Achievements:</b> | <b>Actual:</b> 97% of votes held within 5-7 days or less<br>98% of votes held within 7-10 days or less<br>Less than 2% of votes held in over 10 days |

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

|                                |                                                                                                                        |
|--------------------------------|------------------------------------------------------------------------------------------------------------------------|
| <b>Standard / Target:</b>      | LRA cases: 85%<br>ESA (appeals) cases: 75%<br>OHSa (appeals) cases: 75%<br>OHSa (complaints) cases: 75%                |
| <b>2015-2016 Commitments:</b>  | LRA cases: 85%<br>ESA (appeals) cases: 75%<br>OHSa (appeals) cases: 75%<br>OHSa (complaints) cases: 75%                |
| <b>2015-2016 Achievements:</b> | <b>Actual:</b> LRA cases: 88%<br>ESA (appeals) cases: 83%<br>OHSa (appeals) cases: 92%<br>OHSa (complaints) cases: 92% |

Percentage of judicial reviews upheld:

|                                |         |
|--------------------------------|---------|
| <b>Standard / Target:</b>      | 90-100% |
| <b>2015-2016 Commitments:</b>  | 90-100% |
| <b>2015-2016 Achievements:</b> | 94%     |

## Accountability Statement

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The OLRB's Annual Report for the fiscal year ending March 31, 2016 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, 2015 to March 31, 2016.**



# For More Information

**Local:** 416-326-7500

**Toll-Free:** 1-877-339-3335

**Hearing Impaired (TTY):** 416-212-7036

**Fax:** 416-326-7531

**Hours of Operation:** 8:30am - 5:00pm

**Website:** <http://www.olrb.gov.on.ca>

505 University Avenue, 2nd Floor  
Toronto, Ontario  
M5G 2P1