



Ontario

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
2013-2014*

CHAIR — BERNARD FISHBEIN

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Chair's Message

This is the fourth message I have been privileged to write for the Board's Annual Report since being appointed Chair. I do not wish by any means to suggest that it has become "old hat" by now – I only wish it was such a pleasant and effortless task to write some of my decisions.

So 2013-2014 was another busy year for the Board as the statistics contained in this report demonstrate. Over 3,600 new cases were filed last year (about 200 less than the year before – a slight trend that seems to be slowly emerging over the last five years). However, it appears that the statistics suggest the Board is becoming more efficient and timely in the processing of those cases. Almost 3,900 cases were disposed of in the last fiscal year (the discrepancy is explained by cases filed before this fiscal year), the most in the last five years with the exception of the immediately preceding fiscal year. Meanwhile, the cases still outstanding at the end of this fiscal period continue to drop (and at a rate greater than the decrease in the number of cases) so by these measures, the Board appears to be becoming faster in the disposition of its cases. In fact, more than half of all Board cases are disposed of in under 63 business days (or three calendar months) – surprisingly almost 75% of all certification cases and 82% of construction grievances – but disappointingly, less than 40% of all contravention of the Act (Section 96) cases.

In terms of the different types of cases the Board hears, the Board received almost 700 applications for certification (slightly lower – by 20 – or just about 3% than the year before – which numbers that year were undoubtedly augmented by "raiding" in the triennial open-period in the construction industry which largely concluded prior to this fiscal period – and other than last year, is the highest number of certification applications in the last five years). They involved almost eleven and one half thousand employees – about 750 in the construction industry and 9,700 in non-construction activity - yet a little more than half of those applications were in the construction industry which continues to occupy a greater percentage of the Board's resources. Twenty certification applications involved employees with bargaining units between 100-200 employees, six involved employees with bargaining units between 200 and 500 employees and eight over 500 employees. Interestingly enough, 416 applications for certification were granted last year vs. 130 dismissed – more than a three to one ratio. Before anyone mistakenly assumes that this necessarily demonstrates workplaces across the Province are bursting out in choruses of "Solidarity Forever", there were also 195 applications that were either settled, withdrawn or adjourned *sine die*. But even adding all of them to the dismissals, that is a discrepancy of 416 to 325 – so that appears to be a union success rate of just under 60% in applications for certification. I do not wish

to overstate this statistic (it does not differentiate between those certifications filed in previous years disposed of in this fiscal year, or conversely those applications filed in this fiscal year but not yet disposed of – or analyze in any way construction vs. non-construction applications) but it appears that notwithstanding what may be perceived as the occasional very public apparent miscalculation, unions are more prudent and selective in those applications that they make and pursue.

In other types of cases, there are other interesting observations. By far the largest drop in volume of cases is complaints of contravention of the *Labour Relations Act* (section 96 cases) which dropped by 172 applications (by about 25%) to the lowest level in the last five years. I am not sure of the significance of that decrease (less violations I write hopefully, more private resolution, perhaps a decrease of a single kind of unfair labour practice complaint like duty of fair representation cases which appear to be continuing to trend downward or perhaps less faith in the ability of the Board to effectively and expeditiously resolve these complaints – and I cannot help but observe that only 25 were granted and 136 dismissed, but 461 were settled, withdrawn or adjourned *sine die*) but it is too large a change not to observe. It requires further scrutiny and analysis.

Interestingly enough, jurisdictional disputes, which peaked three years ago, have continued to decline,

notwithstanding the constant complaints about them in the community, so that they are less than half of what they were then and the lowest they have been in the last five years. There was a small increase (about 3%) in construction industry grievance referrals (so that they are the highest they have been in the last four years) and also an approximately equal decrease in employment standards appeals from the previous period – but they remain slightly more than half the volume of what they were when they peaked two and three years ago. There was also, for the first time in five years, a drop of more than 10% in *Occupational Health & Safety Act* complaints – but still at the highest level they have been at in five years, with the exception of last year.

Again, virtually 80% of all cases filed at the Board are settled without a hearing (and in some types of cases even higher – e.g. construction industry referrals almost 87%). Again it bears noting, though often unheralded, how spectacularly effective the Board's complement of Mediators are.

On a perhaps disconcerting front, in the last fiscal year, applications for judicial review at Divisional Court were granted with respect to 4 Board decisions (11 were dismissed and 7 were abandoned). Although some may argue that is still a credible rate of success, in the previous year no Board decisions were successfully judicially reviewed (while 16 were dismissed and 4 cases

abandoned). Whether this represents an atypical year for the Board and the courts or is a prognosis of a more interventionist court in the post-*Dunsmuir* world of judicial review (with only a “reasonableness” standard applicable) remains to be seen.

Last year I also reported to you on the early results of the changes the Board had implemented for the triennial three-month construction industry “open-period” which ended or closed on April 30, 2013. As the construction industry continues to play a critical role in the economy of the province (and stable labour relations in that sector become increasingly important) and as cases arising in that sector become an increasing and significant portion of the Board’s case load, and emboldened by our successful case management experience in construction industry certifications over the last two years, we continue to attempt to improve and “fine tune” our processes in this crucial sector.

Last year’s changes compressed a higher or more particularized level of pleadings into only two rounds within a shorter period after the required representation vote and promised a “review” decision to determine what issues were still alive and worthy of hearing *viva voce* evidence at an expedited hearing which would take place within eight weeks of the vote. Last year, we had only the most preliminary and early results – now I have a more complete and detailed picture.

Of the 202 files opened in that 3-month period (112 raids and 90 decertifications), only 13 remain open in June 2014, at the time of my writing this message (one of which is awaiting the release of a decision while the others are all scheduled for fixed hearing dates). So almost 94% have now been disposed of – a far better closure rate than the previous open period, as best as we can tell. Most importantly more than 80% were resolved by or at the expedited hearing date. Administratively, it appears that the changes were an unqualified success. To those who argue that jurisprudentially the success is less clear because some complex, subtle (if not arcane) yet important legal issues about the nature of construction industry bargaining units and bargaining rights were compressed into an overly hurried and less thoughtful process, I can observe of the 189 decisions issued so far, only 33 were the subject of reconsideration applications. Seventeen of those reconsideration applications were either about vote details or procedural matters (e.g. form of the ballot, poll locations, production, etc.). Of the 16 that could be characterized as reconsiderations on the “merits”, 10 were dismissed and two were withdrawn or abandoned – leaving four that were granted – two resulting in the application being dismissed and two resulting in the application being scheduled for hearing. The only application for judicial review arising from these applications was withdrawn. So at least in terms of ensuring that these applications

are not determined solely by the passage (or less charitably the waste) of time until the next open period (unlike a not insignificant number of cases during the 2010 open period), it appears that objective has been met. The Board is considering to what extent these 2013 changes should be made permanent (or perhaps even adapted to other applications before the Board). To that extent, the Board is planning an open “town meeting” for both stakeholders and counsel in the fall to hear both comments about these procedures and “open period” experiences – both good and bad.

With the passage of the *School Boards Collective Bargaining Act, 2014*, there has been new jurisdiction assigned to the Board which may impact on the Board’s volume of work in the summer and fall of 2014 as activity around teacher and education sector collective bargaining intensifies. Certainly I can personally attest that the last round of teacher bargaining gave rise to more than a few interesting and attention-drawing cases. Questions surrounding the scope of central provincial bargaining as opposed to local school board bargaining (including whether proposals prejudicially affect the denominational rights protected by the *Constitution Act, 1867*, and the *Canadian Charter of Rights and Freedoms*) may be referred by the parties to the Board. Equally, the Act is enforceable as if it formed part of the *Labour Relations Act* (with the exception of the duty of

the Crown and an employer bargaining agency under the Act to cooperate in good faith with the other in preparing for and conducting central bargaining), which may give rise to complaints that the Act has not been complied with regarding other conduct it now regulates.

Lastly, the Board continues to search out and appoint qualified Vice-Chairs of the highest calibre – at least in my undoubtedly objective view. Last year, we were most pleased when both Roslyn McGilvery and Eli Gedalof, on a full-time basis, and Derek Rogers and Thomas Kuttner, on a part-time basis, well-known and deservedly highly regarded labour law counsel, were able to join the Board (although it has been a long time since Tom Kuttner practised – he is a former Vice-Chair of this Board and the New Brunswick Board as well as an arbitrator and labour law professor at the law schools both at the University of Windsor and previously the University of New Brunswick).

The contrary “flip side” of this coin, in today’s competitive market place, the Board, perhaps not surprisingly, has difficulty in always retaining these highly regarded and skilled adjudicators. Last year to the Board’s detriment and my personal regret, valued adjudicators such as Gail Misra, Diane Gee (a former acting Chair, and Alternate Chair) and Tanja Wacyk either left the Board or elected to change their status from full time to part time.

So, as interesting as 2013-2014 has been for the Ontario Labour Relations Board, 2014-2015 at least promises to be equally interesting. I cannot conclude this report, however, without once again commenting on the expertise and dedication of the staff at the Board which I certainly understood in my previous life in private practise, but have come to even more admire and appreciate in my years as Chair. A team of knowledgeable and discerning adjudicators ably supported by a hardworking and dedicated staff, continue to ensure that the Board maintains its reputation as Canada's largest and pre-eminent labour and employment tribunal.

As we continue to work diligently to seek improvements so that the Board can be even better at what it does, as I have said before, I welcome everyone to contact the Board (and me) with their comments or concerns.



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*, R.S.O. 1990. c.15
- *Colleges Collective Bargaining Act, 2008*, S.O. 2008, c.15
- *Crown Employees Collective Bargaining Act, 1993*, S.O. 1993, c.38
- *Courts of Justice Act* R.S.O. 1990. c.C.43
- *Education Act*, R.S.O. 1990, c.E.2
- *Employment Protection for Foreign Nationals Act (Live-In Caregivers and Others), 2009*, S.O. 2009, c.32

- *Employment Standards Act, 2000*, S.O. 2000, c.41
- *Environmental Bill of Rights Act, 1993*, S.O. 1993, c.28
- *Environmental Protection Act*, R.S.O. 1990, c.E.19
Including jurisdiction for:

- *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*, 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, Sch. A
- *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
- *Public Inquiries Act, 2009*, S.O. 2009, c. 33, Sch. 6
- *Public Sector Labour Relations Transition Act, 1997*, S.O. 1997, c. 21
- *Public Service of Ontario Act, 2006*, S.O. 2006, c.25, Sch. A
- *Smoke-Free Ontario Act*, S.O. 1994, c.10
- *Retirement Homes Act, 2010*

The Board

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 is set out in the *Adjudicative Tribunal Accountability, Governance and Appointments Act, 2009*.

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

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

The Board plays a fundamental role in the labour relations, employment standards, and health and safety regimes in Ontario. Board decisions are based on the evidence presented and submissions received, and on the adjudicator's interpretation of the facts in dispute, relevant legislation and jurisprudence. In keeping with the Ministry of Labour's overarching principles, the Board encourages harmonious relations between 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.

The Board's Principal Statutes

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, strikes, lock-outs, first contract direction, jurisdictional disputes and a range of issues arising in the construction industry, including the arbitration of grievances.

Employment Standards Act, 2000

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

Mediation is attempted in all ESA matters before the Board. Where mediation is unsuccessful, the Board conducts what is in essence a fresh hearing of the workplace dispute. Parties to the dispute are expected to

attend the hearing with their evidence and witnesses, and be able to persuade the Board of the correctness of their case.

Occupational Health and Safety Act

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

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

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.

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

Board Processes

Essentially, every application that is filed with the Board is first assigned to a Mediator (formerly Labour Relations Officer). 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 80% of all disputes coming before the Board are settled by the parties.

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 as to who worked as an OIC in 2013 – 2014 and the term of their appointment.

Name	Position	First Appointed	Term Expires / Incumbent Resigns
Fishbein, Bernard	Chair	February 28, 2011	February 27, 2016
McLean, Brian C.	Alternate Chair	July 8, 1998	September 11, 2015
Freedman, Harry	Vice-Chair	July 8, 1998	July 7, 2017
Gedalof, Eli	Vice-Chair	October 30, 2013	October 28, 2016
Kelly, Patrick M.	Vice-Chair	May 17, 1999	May 17, 2016
Lewis, John D	Vice-Chair	March 11, 2009	March 10, 2019
McGilvery, Roslyn	Vice-Chair	September 9, 2013	September 8, 2015
McKee, David A.	Vice-Chair	April 29, 1999	April 29, 2016
McKellar, Mary Anne	Vice-Chair	January 24, 2001	January 23, 2017
Misra, Gail	Vice-Chair	April 18, 2012	September 6, 2013
Nyman, Jesse	Vice-Chair	December 21, 2012	December 19, 2014
Rowan, Caroline	Vice-Chair	May 6, 1999	May 6, 2016
Serena, Susan J.	Vice-Chair	May 28, 2003	May 27, 2014
Shouldice, Lee	Vice-Chair	May 30, 2007	May 29, 2017
Slaughter, Jack J.	Vice-Chair	February 3, 2003	February 2, 2016
Wacyk, Tanja	Vice-Chair	May 28, 2003	May 27, 2014
Waddingham, Kelly A.	Vice-Chair	April 7, 2004	December 31, 2017
Wilson, Matthew	Vice-Chair	August 29, 2012	August 28, 2014
Albertyn, Christopher J.	Part-Time Vice-Chair	September 1, 2004	August 30, 2015
Anderson, Ian B.	Part-Time Vice-Chair	March 24, 2004	April 7, 2016
Cummings, Mary Ellen	Part-Time Vice-Chair	August 1, 2008	July 31, 2013
Gee, Diane L.	Part-Time Vice-Chair	August 1, 2008	July 31, 2016
Gray, Owen	Part-Time Vice-Chair	May 8, 2013	June 6, 2014
Green, Maurice	Part-Time Vice-Chair	May 16, 2012	May 16, 2014
Hayes, James	Part-Time Vice-Chair	June 30, 2011	September 30, 2015
Herlich, Bram	Part-Time Vice-Chair	May 8, 2013	June 6, 2014
Jesin, Norman	Part-Time Vice-Chair	August 25, 2004	August 24, 2015
Johnston, Janice	Part-Time Vice-Chair	May 8, 2013	June 6, 2014
Kanee, Lyle	Part-Time Vice-Chair	February 25, 2009	February 24, 2016
Kitchen, Robert	Part-Time Vice-Chair	May 30, 2012	May 30, 2014
Kuttner, Thomas	Part-Time Vice-Chair	September 11, 2013	September 10, 2015
McDermott, Edward T.	Part-Time Vice-Chair	May 17, 2011	May 16, 2016
Mohamed, Yasmeena	Part-Time Vice-Chair	June 6, 2012	June 6, 2014
Murray, Corinne F.	Part-Time Vice-Chair	February 3, 2009	February 2, 2014
Petryshen, Kenneth	Part-Time Vice-Chair	May 8, 2013	June 6, 2014
Rogers, Derek	Part-Time Vice-Chair	August 28, 2013	August 27, 2015
Schmidt, Christine	Part-Time Vice-Chair	December 10, 2010	December 9, 2015
Silverman, Marilyn	Part-Time Vice-Chair	February 1, 2011	January 31, 2016
Steinberg, Larry	Part-Time Vice-Chair	April 18, 2011	April 17, 2016

Name	Position	First Appointed	Term Expires / Incumbent Resigns
LeMay, R. D. Paul	Member (Employer) FT	December 15, 2005	December 14, 2016
O'Connor, Richard J.	Member (Employer) FT	November 6, 2002	November 5, 2016
O'Rourke, Roy	Member (Employer) FT	June 1, 2011	May 31, 2016
Rundle, Judith A.	Member (Employer) PT	July 17, 1986	July 16, 2017
Schel, John	Member (Employer) PT	June 15, 2010	December 18, 2015
Baxter, Richard A.	Member (Employee) FT	April 3, 2006	April 2, 2014
Haward, Alan	Member (Employee) PT	March 25, 1998	March 24, 2017
McManus, Shannon R. B.	Member (Employee) FT	December 15, 2005	December 14, 2016
Patterson, David A.	Member (Employee) PT	April 2, 1986	April 1, 2017
Phillips, Carol	Member (Employee) FT	January 14, 2009	January 13, 2017

Board Staff and Key Activities

The OLRB's operations and staff can be broadly divided into: The Board's Adjudicators (OIC appointments), Administration, Field Services (mediation), and Legal Services. The administrative, field, 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. He, along with the Deputy Director / Registrar, is responsible for the overall administration of the Board's businesses: operations, mediation and adjudication. The Director / Registrar, along with the Deputy Director / Registrar, oversee the effective processing and scheduling of each case, communicate with the parties in matters relating to the mediation of cases, scheduling of hearings or on particular problems 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 and efficient coordination of the procurement and budget functions, human resources functions, client services, Information and 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 in the Board offices 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.

Field Services (Mediation)

The Board is a pioneer in the area of alternative dispute resolution. The Manager of Field Services, Mediators (Labour Relations Specialists and Labour Relations Officers) 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 Conciliation Officers, 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 website and work on major IT projects within the Board.

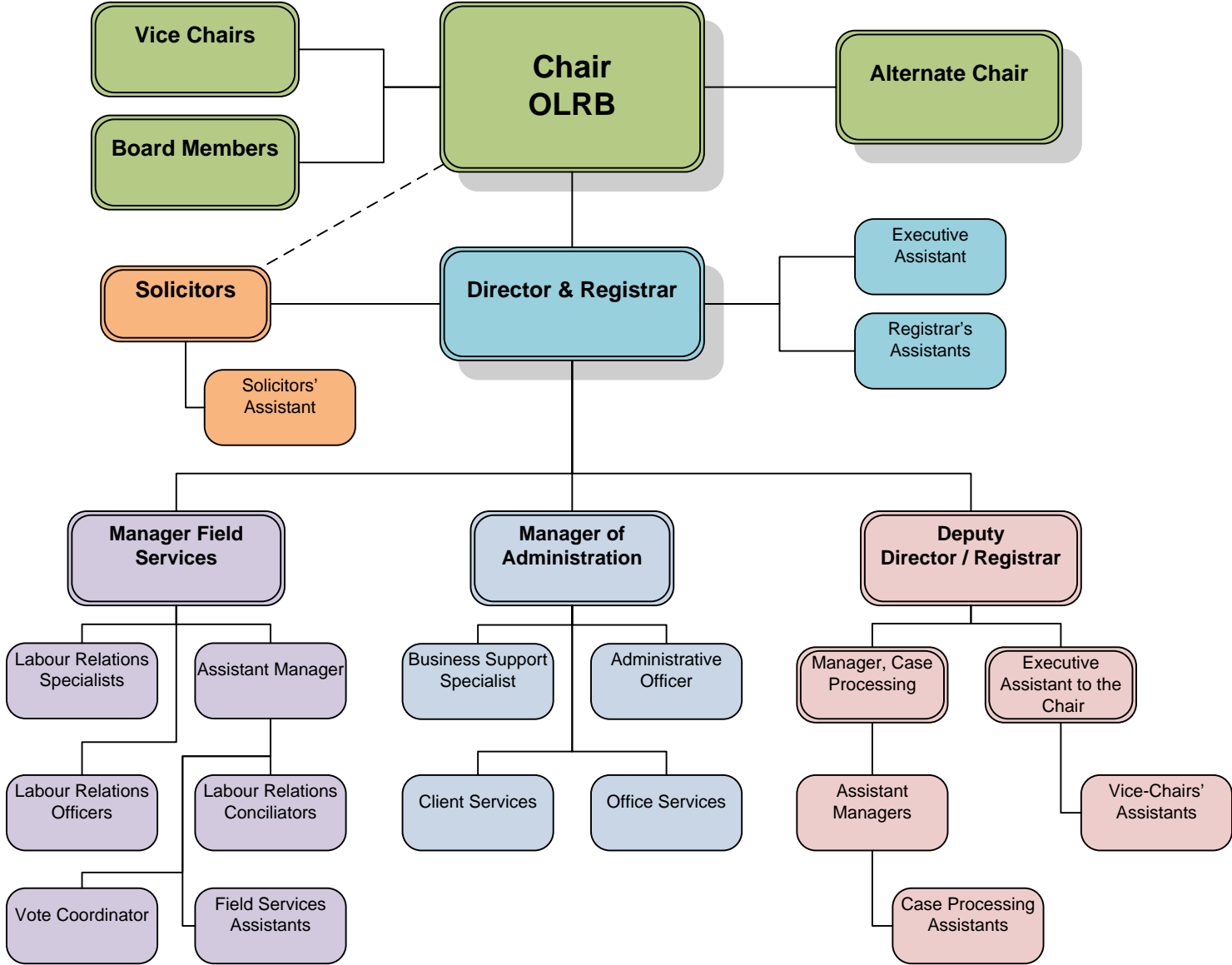
It is worth noting that the Board has been heavily involved this year in the development of a new electronic case management system. The system is expected to be in place as of the beginning of August, 2014.

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 – April 2014



Operational Performance

Case Numbers and Disposition

Overall, the Board received 3636 new applications this year. This number is slightly lower than last year by 202 cases. 1,671 additional cases remained open from previous years as the 2013/14 year began, for a total number of files before the Board this year of 5307 (Figures 1 and 2).

Of the 5307 files before the Board, 3864 were disposed of, that is, settled, decided, withdrawn etc. Consequently, 1442 cases were carried into 2014/15, which are 229 fewer cases than last year. 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, 52% were completed within approximately 90 calendar days of application receipt and about 68% were completed within 6 months (Figure 13). The tri-annual “open period” in the construction industry took place between February 1, 2013 and April 30, 2013. The Board received 202 certification and termination applications related to the open period.

Total Applications Received, Disposed of and Pending

Fiscal Year 2013-14	Caseload			Disposed of					
	Total	Pending April 1, 2013	Received Fiscal Year 2013-14	Total	Granted*	Dismissed	Terminated	Settled Withdraw n/ Sine Die	Pending March 31, 2014**
Type of Case	Total			Total	Granted*	Dismissed	Terminated	Settled Withdraw n/ Sine Die	Pending March 31, 2014**
Total	5,307	1,671	3,636	3,864	861	506	120	2,377	1,442
Certification of Bargaining Agents	951	253	698	742	416	130	1	195	209
Declaration of Termination of Bargaining Rights	180	62	118	146	55	44	5	42	34
Declaration of Successor Trade Union	31	2	29	22	20	0	0	2	9
Declaration of Successor Employer or Common Employer Status	245	110	135	126	25	4	0	97	119
Accreditation	4	4	0	4	3	0	0	1	0
Declaration and Direction of Unlawful Strike	11	1	10	10	1	1	0	8	1
Declaration and Direction of Unlawful Lockout	5	0	5	4	0	2	0	2	1
Consent to Prosecute	2	1	1	2	0	1	0	1	0
Contravention of Act	891	376	515	625	25	136	3	461	266
Right of Access	1	1	0	1	0	1	0	0	0
Exemption From Union Security Provision in Collective Agreement	1	0	1	0	0	0	0	0	1
Early Termination of Collective Agreement	7	0	7	5	5	0	0	0	2
Trade Union Financial Statement	6	2	4	4	0	2	1	1	2
Jurisdictional Dispute	225	173	52	103	5	9	5	84	122
Referral on Employee Status	17	8	9	7	0	0	0	7	10
Referral From Minister on Appointment of Conciliation Officer or Arbitrator or Under HLDA	9	3	6	5	0	0	0	5	4
Referral of Construction Industry Grievance	1,151	164	987	996	209	13	0	774	155
Complaint Under Occupational Health and Safety Act	214	35	179	174	0	16	0	158	40
Complaint Under the Environmental Protection Act	1	0	1	1	0	0	0	1	0
First Agreement Arbitration Direction	19	6	13	11	2	1	0	8	8
Determination of Sector of Construction Work	5	1	4	2	1	1	0	0	3
Final Offer Vote	18	6	12	12	6	3	0	3	6
Employment Standards Act (Appeal)	1,099	369	730	721	67	129	98	427	377
Occupational Health and Safety Act (Appeal)	145	53	92	99	8	10	4	77	46
Public Sector Labour Relations Transition Act, 1997	25	12	13	20	6	1	0	13	5
Project Agreement Application	6	5	1	3	0	0	0	3	3
Ambulance Services Collective Bargaining Act, 2001	3	2	1	1	0	0	0	1	2
Other Case Types	35	22	13	18	7	2	3	6	17

* Includes cases in which a request was granted or a determination made by the Board.

** Note: Pending numbers may vary slightly year-to-year due to inadequate system reporting

Figure 1

Applications Received and Disposed of – 5 Year Comparison

Main Case Types

The majority of cases filed in 2013/14 fall under 5 main categories:

- 1) Under the LRA, Certification and termination of bargaining rights – 698 applications for certification and 118 applications for termination of bargaining rights
- 2) Also under the LRA, Contraventions of the Labour Relations Act – 515
- 3) Also under the LRA, Referrals of Construction Industry Grievances – 987
- 4) Under the ESA, Appeals of decisions of Employment Standards Officers – 730
- 5) Under the OHSA, Health and Safety (complaints under s50 and Appeals of Inspector's orders) – 271

The number of certification files and applications for termination of bargaining rights was 816, slightly lower this year over last (by 22 cases). This year had the second highest number of certification applications of the last 5 years.

The largest drop in volume of cases is complaints of the contravention of the Labour Relations Act (section 96) which dropped by 172 applications (or by 25%) to the lowest level in the last 5 years.

Construction grievances remain a relatively steady component of the Board's work; the number filed (987) is slightly higher over the past four years.

The number of Employment Standards appeals continued to decline to 730 cases.

Complaints under the Occupational Health and Safety Act with respect to reprisals in the workplace decreased by 14% from last year, which had experienced a peak in caseload. Measures introduced in the Act which permitted health and safety inspectors to refer reprisal complaints to the Board accounted for a 60% increase last year. Of the 179 applications filed this year (down from 207 last year), 41 were referred by inspectors (Figure 12). Appeals of health and safety inspectors' orders have been stable over the past three years (92).

Fiscal Years 2009-10 to 2013-14	Number Received, Fiscal Year						Number Disposed of, Fiscal Year					
	Total	2009-10	2010-11	2011-12	2012-13	2013-14	Total	2009-10	2010-11	2011-12	2012-13	2013-14
	19,907	4,001	4,323	4,109	3,838	3,636	18,160	3,675	3,087	3,425	4,109	3,864
Certification of Bargaining Agents	3,284	623	652	592	719	698	3,190	559	671	549	669	742
Declaration of Termination of Bargaining Rights	595	140	151	67	119	118	561	112	126	93	84	146
Declaration of Successor Trade Union	41	5	1	3	3	29	31	2	2	1	4	22
Declaration of Successor Employer or Common Employer Status	654	165	114	111	129	135	574	142	92	71	143	126
Accreditation	11	4	1	4	2	0	14	5	3	0	2	4
Declaration and Direction of Unlawful Strike	42	17	6	0	9	10	38	15	2	2	9	10
Declaration and Direction of Unlawful Lockout	7	0	0	1	1	5	5	0	0	0	1	4
Consent to Prosecute	12	3	0	5	3	1	15	1	2	7	3	2
Contravention of Act	3,152	658	693	599	687	515	3,012	624	515	513	735	625
Right of Access	2	0	0	0	2	0	2	0	0	0	1	1
Exemption From Union Security Provision in Collective Agreement	12	9	0	0	2	1	12	2	0	0	10	0
Early Termination of Collective Agreement	43	10	8	11	7	7	42	11	8	11	7	5
Trade Union Financial Statement	14	2	4	2	2	4	11	3	2	1	1	4
Jurisdictional Dispute	372	54	78	115	73	52	299	54	36	29	77	103
Referral on Employee Status	44	5	10	7	13	9	48	11	5	10	15	7
Referral From Minister on Appointment of Conciliation Officer or Arbitrator or Under HLDAA	101	51	16	22	6	6	53	12	8	20	8	5
Referral of Construction Industry Grievance	4,904	1,048	952	968	949	987	3,884	989	448	475	976	996
Complaint Under Occupational Health and Safety Act	701	82	110	123	207	179	681	83	75	137	212	174
Complaint Under the Environmental Protection Act	10	5	1	0	3	1	11	0	6	0	4	1
Complaint Under the Smoke-Free Ontario Act	6	2	0	2	2	0	6	2	0	2	2	0
First Agreement Arbitration Direction	68	18	12	13	12	13	69	12	17	9	20	11
Determination of Sector of Construction Work	11	1	1	3	2	4	9	2	0	2	3	2
Final Offer Vote	64	13	13	17	9	12	53	7	15	11	8	12
Employment Standards Act (Appeal)	5,024	896	1,351	1,304	743	730	4,871	826	967	1,370	987	721
Occupational Health and Safety Act (Appeal)	528	150	102	90	94	92	485	157	67	63	99	99
Public Sector Labour Relations Transition Act, 1997	61	12	11	13	12	13	52	7	4	14	7	20
Project Agreement Application	12	2	4	3	2	1	8	2	0	1	2	3
Ambulance Services Collective Bargaining Act, 2001	17	3	3	5	5	1	13	2	2	4	4	1
Other Case Types	115	23	29	29	21	13	111	33	14	30	16	18

Figure 2

Mediation Results

Mediators are assigned to virtually every application filed with the Board and the majority of all files disposed of are settled by the parties with the assistance of a mediator. 79.3% of all cases before the Board were settled or withdrawn; 20 % were decided by way of a Hearing or Consultation. This is a lower percentage of cases settled than in the past 5 years. There does not appear to be any single reason for this drop, although an increase in the use of telephone and electronic mediation may account for some of the reduction.

Fiscal Year 2013-14				Cases in Which Activity Completed					
Type of Case	Total Cases Assigned*	Pending April 1, 2013	Received Fiscal Year 2013-14	Total	Cases Settled	% of Cases Settled	To Hearing / Consultation	Withdrawn / Sine Die	Pending**
Total	5,307	1,671	3,636	3,864	3,064	79.3%	800	2,377	1,442
Certification of Bargaining Agents	951	253	698	742	560	75.5%	182	195	209
Declaration of Termination of Bargaining Rights	180	62	118	146	102	69.9%	44	42	34
Successor Employer or Common Employer Status	245	110	135	126	88	69.8%	38	97	119
Referral on Employee Status	17	8	9	7	7	100.0%	0	7	10
Contravention of Act	891	376	515	625	469	75.0%	156	461	266
Referral of Construction Industry Grievance	1,151	164	987	996	866	86.9%	130	774	155
Complaint Under Occupational Health and Safety Act	214	35	179	174	154	88.5%	20	158	40
Employment Standards Act (Appeal)	1,099	369	730	721	584	81.0%	137	427	377
Occupational Health and Safety Act (Appeal)	145	53	92	99	87	87.9%	12	77	46
All Other Case Types	414	241	173	228	147	64.5%	81	139	186
*Includes all cases assigned to mediators, which may or may not have been disposed of by the end of the year.									
**Includes all cases in which the mediator activity may or may not be complete but which was not disposed of by the end of the year (March 31, 2014).									

Figure 3

Certification and Termination of Bargaining Rights Cases

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

The Board received a total of 698 applications for certification and 118 applications for termination of bargaining rights (Figure 1).

The Board held a total of 441 votes in 2013/14, with 15,595 people voting. The vast majority of these votes relate to certification files; the remainder are representational votes in termination applications, under the successor employer/related employer provisions of the Act or are votes related to Hospital, School Board and Municipal re-organization. Unions won the majority of certification votes (66%) and lost the majority of termination applications (71%) (Figure 4).

Fiscal Year 2013-14	Representation Cases Disposed			Representation Votes Conducted*		Representation Ballots Cast		
	Total Cases	Appl. Granted	Appl. Not Granted	Votes Conducted	Employees on Employers List	Total	In Favour of	Against
Total Certifications & Terminations	413	277	136	441	19,400	15,595	47.0%	53.0%
Certification of Bargaining Rights	337	223	114	350	17,625	14,058	49.7%	50.3%
Construction cases								
One Union	31	7	24	38	857	830	7.2%	92.8%
Two Unions	53	24	29	39	720	666	63.4%	36.6%
Three Unions	3	2	1	1	15	9	88.9%	11.1%
Regular cases								
One Union	246	188	58	267	15,445	12,098	51.7%	48.3%
Two Unions	4	2	2	5	588	455	54.9%	45.1%
Termination of Bargaining Rights								
One Union	76	54	22	91	1,775	1,537	22.4%	77.6%

* 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 non-construction certification applications, a minority relate to the manufacturing sector, and the majority related to the broader public sector and non-manufacturing businesses (Figure 5).

Fiscal Year 2013-14	All Groups	
	Total	Employees
All Industries	426	11,444
Manufacturing	3	69
Chemicals	1	12
Food, Beverages	1	7
Other Manufacturing	1	50
Non-Manufacturing	423	11,375
Accommodation, Food Services	2	25
Construction	218	1,674
Education, Related Services	2	119
Health, Welfare Services	29	891
Hospital	7	298
Local Government	2	55
Mining, Quarrying	1	16
Municipal	2	966
Recreational Services	1	6
Retail Trade	1	16
Transportation	1	170
Other Services	150	6,482
Other Non-Manufacturing	7	657

Figure 5

Fiscal Year 2013-14	Total		Construction **		Non-Construction	
	Cases	Employees	Cases	Employees	Cases	Employees
Total	405	11,444	208	1,752	197	9,692
2-9 employees	228	1,013	156	619	72	394
10-19 employees	73	962	34	440	39	522
20-39 employees	45	1,221	14	360	31	861
40-99 employees	30	1,678	3	172	27	1,506
100-199 employees	20	2,821	1	161	19	2,660
200-499 employees	6	1,448			6	1,448
500+ employees	3	2,301			3	2,301

* Refers to the total number of employees in one or more bargaining units certified in an application. A total of 415 bargaining units were certified in the 405 applications in which certification was granted.

** Refers to cases processed under the construction industry provisions of the Act. This figure should not be confused with the figure in Figure 10, which includes all applications involving construction employers whether processed under the construction industry provisions of the Act or not.

Figure 6

Of the 405 certification applications in which unions were successful, 228 bargaining units were composed of 2 - 9 employees, and at the other extreme 6 were bargaining units of 200 - 499 employees, and 3 were of units with over 500 employees (Figure 6).

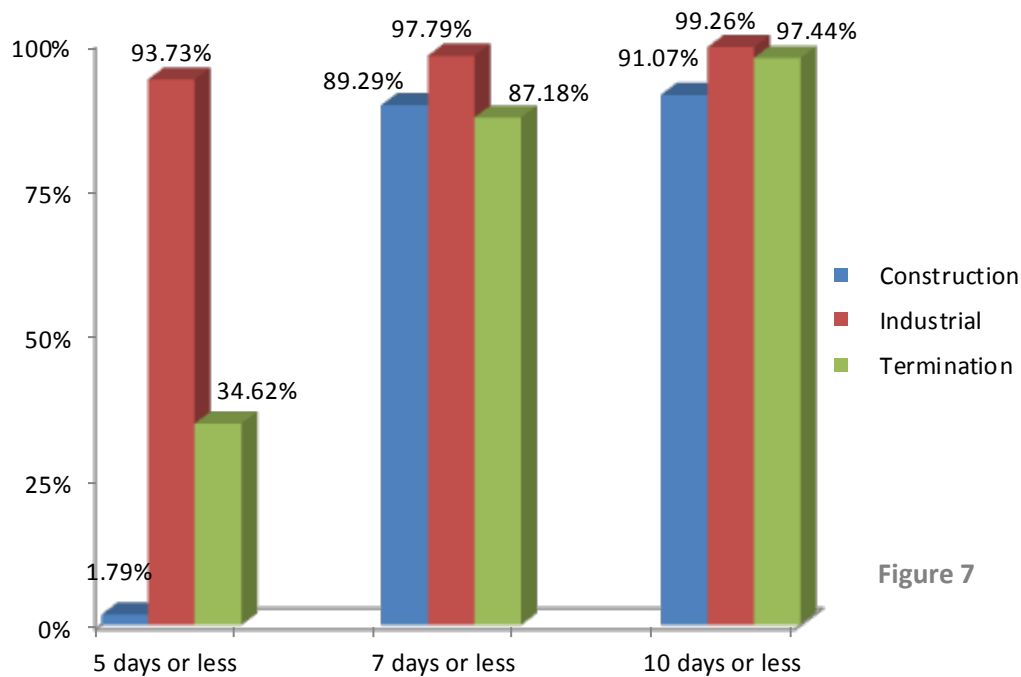


Figure 7

Over 93% of all non-construction certification votes were held within five working days of application, about 98% within seven days and 99.26% within ten days of application. Termination applications took slightly longer, largely because of bargaining unit and notice issues: over 34% were held within five days of application, 87% within seven days and 97% within ten days of application (Figures 7 & 8).

Fiscal Year 2013-14 Number of Days*	Total		Industrial		Construction		Termination Cases to Vote	
	Cases	% of	Cases	% of	Cases	% of	Cases	% of
	327		271		56		78	
Under 5	1	0.31%	1	0.37%	0	0.00%	2	2.56%
5	254	77.68%	253	93.36%	1	1.79%	25	32.05%
6	29	8.87%	7	2.58%	22	39.29%	26	33.33%
7	31	9.48%	4	1.48%	27	48.21%	15	19.23%
8	4	1.22%	3	1.11%	1	1.79%	6	7.69%
9	0	0.00%	0	0.00%	0	0.00%	2	2.56%
10	1	0.31%	1	0.37%	0	0.00%	0	0.00%
11-15	3	0.92%	1	0.37%	2	3.57%	1	1.28%
16-20	1	0.31%	1	0.37%	0	0.00%	0	0.00%
over 20	3	0.92%	0	0.00%	3	5.36%	1	1.28%

*Number of Business Days between application date and date vote held

Figure 8

Contravention of Act

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

In 2013-2014, the Board received 515 complaints under this section, a decrease from last year's 687 (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, 376 cases were carried over from 2012-2013. Of the 891 cases processed, 461 were settled and 266 cases were pending on March 31, 2014 (Figure 1).

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

Fiscal Year 2013-14	Caseload			Disposed of					
	Total	Pending April 1, 2013	Received Fiscal Year 2013-14	Total	Granted*	Dismissed	Terminated	Settled Withdraw n/ Sine Die	Pending March 31, 2014**
Duty of Fair Representation / Referral	252	92	160	187	1	100	10	76	68
Interim Order	30	6	24	29	6	2	4	17	3

* Includes cases in which a request was granted or a determination made by the Board.
 Cases counted here also are reflected in Figure 1.

OLRA) accounted for 252 of the complaints processed. One was granted, 100 were dismissed, 10 were terminated and 76 were settled. 68 were pending as of March 31, 2014 (Figure 9).

Applications for Interim Order

Where a proceeding is pending, the Board, on application under the Act, may make interim orders requiring an employer to reinstate an employee 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 2013/14, the Board received 30 applications for interim orders. Six were granted, 2 were dismissed, 4 were terminated and 17 were settled. Only 3 were pending on March 31, 2014.

Figure 9

Construction Industry Grievances

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

In 2013-2014, the Board received 987 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, 164 were carried over from 2012-2013. Of the total 1,151 processed, 996 were disposed of including 774 cases which were settled. Awards were made by the Board in 209 cases, 13 cases were dismissed, and 155 cases were pending on March 31, 2014. (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 1,099 appeals during 2013-2014, which includes 730 new cases filed. Of the 721 cases that were disposed of, 67 were granted, 129 were dismissed, 427 cases were settled and 98 were terminated. 377 cases were pending on March 31, 2014. (Figure 1) 51% of the appeals were filed by the employer.

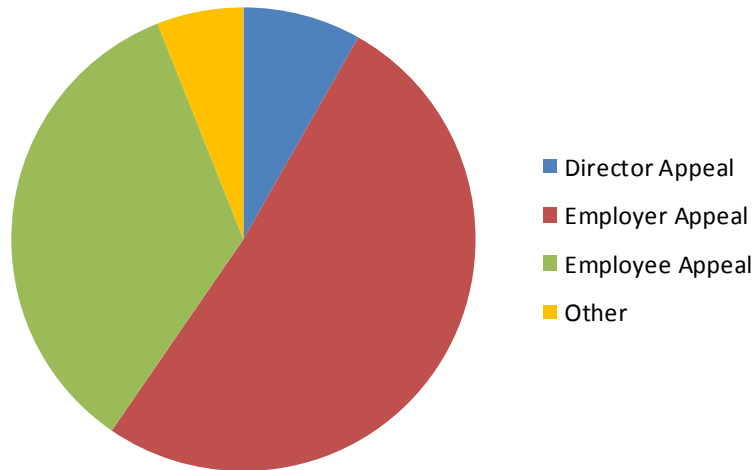


Figure 10

Fiscal Year 2013-14	
Employment Standards Act (Appeals)	Cases Received
Total	730
Director Appeal	60
Employer Appeal	375
Employee Appeal	251
Other	44

Figure 11

Occupational Health and Safety Act

In 2013-2014, the Board received 179 complaints under Section 50 of the *Occupational Health and Safety Act* alleging wrongful discipline or discharge for acting in compliance with the Act. Thirty five cases were carried over from 2012-13 for a total of 214 cases (Figure 1). Forty-one of those applications were referred by health and safety inspectors. (Figure 12)

Of the total 174 cases processed, 154 cases (88.5%) were settled by the parties in discussions with mediators (Figure 3). Sixteen were dismissed and 4 withdrawn or adjourned sine die. No cases were granted or terminated. The remaining 40 cases were pending on March 31, 2014. (Figure 1)

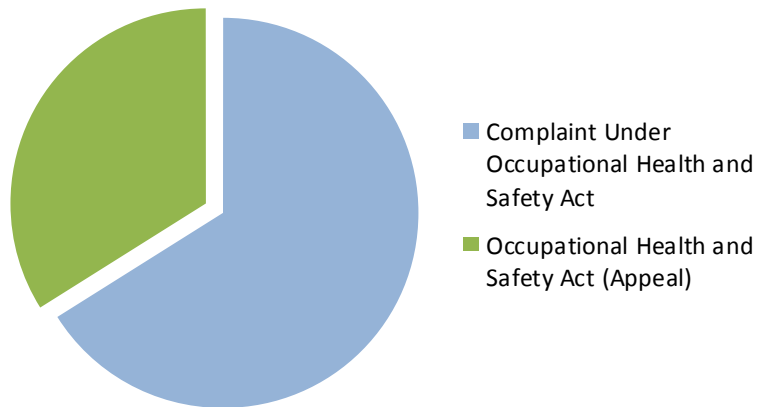


Figure 12

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.

145 appeals were dealt with by the Board in 2013-2014. Of the 99 cases that were disposed of, 8 appeals were granted, 10 were dismissed, 77 cases were settled, 4 cases were terminated, and 46 cases were pending on March 31, 2014. (Figure 1)

Fiscal Year 2013-14	
Occupational Health and Safety Act	Cases Received
Total	271
Complaint Under Occupational Health and Safety Act	179
Referred by Inspectors	41
Occupational Health and Safety Act (Appeal)	92

Miscellaneous Applications

Final Offer Votes

The Minister of Labour requests the Board to conduct votes among employees on employers' last offers for settlement of a collective agreement disputes under section 42(1) of the Act. Although the Board is not responsible for the administration of votes under that section, the Board's field staff 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 twelve requests during the fiscal year. The employees voted to accept the collective agreement in six cases and reject the collective agreement in three cases. Three cases were settled or withdrawn, and six cases were pending on March 31, 2014. (Figure 1)

Declaration of Successor Trade Union

Two applications for declaration of successor trade union were pending April 1, 2013 with twenty-nine new applications received. Twenty applications were granted in the current fiscal year. There are nine cases pending as of March 31st, 2014. (Figure 1)

Declaration of Successor or Common Employer Status

In 2013-2014, the Board had a caseload of 245 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 25 cases, 4 applications were dismissed, 97 cases were settled and 119 cases were pending on March 31, 2014. (Figure 1)

Declaration/Direction of Unlawful Strike/Lock-out

In 2013-2014, the Board dealt with eleven applications seeking a declaration under section 100 regarding an alleged unlawful strike by employees. Eight cases settled, one case was granted and one was dismissed. One case was pending on March 31, 2014.

The Board received five applications for a declaration under section 101 regarding an alleged unlawful lock-out by an employer. Two cases were settled, two were dismissed, and one is pending on March 31, 2014. (Figure 1)

Consent to Prosecute

In 2013-2014, the Board dealt with two applications under section 109 of the Act requesting consent to institute prosecution in court against unions and employers for alleged commission of offences under the Act. One case settled and one was dismissed. No cases were pending on March 31, 2014. (Figure 1)

Religious Exemption from Union Security Provision in Collective Agreement

One application was received under section 52 of the Act, seeking exemption for the employee from the union security provisions of collective agreements because of their religious beliefs. It was pending on March 31, 2014. (Figure 1)

Early Termination of Collective Agreements

Seven applications 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 five cases and two were pending on March 31, 2014. (Figure 1)

Jurisdictional Disputes

225 complaints were before the Board with under section 99 of the Act involving union work jurisdiction. An assignment of work in dispute was made by the Board in

5 cases, 84 cases were settled, 9 cases were dismissed, 5 were terminated, and 122 cases were pending on March 31, 2014. (Figure 1)

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. Seven cases were settled by the parties in discussions with mediators and the remaining ten cases were pending on March 31, 2014. (Figure 1)

Referrals by Minister of Labour

In 2013-2014, the Board dealt with nine cases referred by the Minister under section 115 of the LRA for opinions or questions related to the Minister's authority to appoint a conciliation officer under section 18 of the Act, under sections 48 or 49 of the LRA for authority to appoint an arbitrator, or under s3(2) of the *Hospital Labour Disputes Arbitration Act*. Five applications were settled, and four cases were pending on March 31, 2014. (Figure 1)

First Agreement Arbitration

In 2013-2014, the Board processed nineteen applications for directions to settle first agreements by arbitration. Eight cases were settled, two cases were granted, one case was dismissed and eight cases were pending on March 31, 2014. (Figure 1)

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 2013-2014, the Board processed twenty-five applications under *the Public Sector Labour Relations Transition Act, 1997*. Of the twenty cases that were disposed of, six cases were granted, one was dismissed, thirteen cases were settled and five cases were pending on March 31, 2014. (Figure 1)

Time Required to Dispose of Applications, By Major Case Type

Fiscal Year 2013-14	All Cases*		Certification Cases		Contravention of the Act Cases		Construction Industry Grievances Cases		All Other Cases		Total Certification Cases Granted		Non-Construction Granted		Construction Granted	
	Time Taken (Business Days)	Cumulative % Dispositions	Cumulative % Dispositions	Cumulative % Dispositions	Cumulative % Dispositions	Cumulative % Dispositions	Cumulative % Dispositions	Cumulative % Dispositions	Cumulative % Dispositions	Cumulative % Dispositions	Cumulative % Dispositions	Cumulative % Dispositions	Cumulative % Dispositions	Cumulative % Dispositions	Cumulative % Dispositions	Cumulative % Dispositions
Total	3,028	100.0	686	100.0	503	100.0	514	100.0	1,325	100.0	416	100.0	198	100.0	218	100.0
Under 8 days	182	6.0	86	12.5	21	4.2	42	8.2	33	2.5	44	10.6	0	0.0	44	20.2
8-14 days	345	17.4	92	25.9	27	9.5	198	46.7	28	4.6	71	27.6	16	8.1	55	45.4
15-21 days	245	25.5	121	43.6	18	13.1	59	58.2	47	8.2	84	47.8	78	47.5	6	48.2
22-28 days	194	31.9	77	54.8	21	17.3	44	66.7	52	12.1	59	62.0	47	71.2	12	53.7
29-35 days	133	36.3	45	61.4	23	21.9	23	71.2	42	15.2	26	68.3	21	81.8	5	56.0
36-42 days	159	41.5	22	64.6	22	26.2	26	76.3	89	22.0	10	70.7	7	85.4	3	57.3
43-49 days	108	45.1	26	68.4	20	30.2	11	78.4	51	25.8	21	75.7	11	90.9	10	61.9
50-56 days	104	48.5	22	71.6	17	33.6	11	80.5	54	29.9	13	78.8	4	92.9	9	66.1
57-63 days	101	51.9	22	74.8	18	37.2	7	81.9	54	34.0	9	81.0	2	93.9	7	69.3
64-70 days	73	54.3	13	76.7	7	38.6	7	83.3	46	37.4	6	82.5	0	93.9	6	72.0
71-77 days	75	56.8	7	77.7	13	41.2	6	84.4	49	41.1	4	83.4	2	94.9	2	72.9
78-84 days	60	58.8	2	78.0	15	44.1	8	86.0	35	43.8	2	83.9	1	95.5	1	73.4
85-91 days	59	60.7	6	78.9	8	45.7	6	87.2	39	46.7	3	84.6	1	96.0	2	74.3
92-98 days	48	62.3	5	79.6	11	47.9	6	88.3	26	48.7	3	85.3	2	97.0	1	74.8
99-105 days	42	63.7	3	80.0	11	50.1	3	88.9	25	50.6	2	85.8	0	97.0	2	75.7
106-126 days	118	67.6	9	81.3	25	55.1	6	90.1	78	56.5	5	87.0	1	97.5	4	77.5
127-147 days	94	70.7	8	82.5	27	60.4	1	90.3	58	60.8	6	88.5	0	97.5	6	80.3
148-168 days	77	73.2	8	83.7	24	65.2	2	90.7	43	64.1	5	89.7	0	97.5	5	82.6
Over 168 days	811	100.0	112	100.0	175	100.0	48	100.0	476	100.0	43	100.0	5	100.0	38	100.0

* Excludes cases in which proceedings were adjourned sine die

Figure 13

Court Activity

On April 1, 2013, there were twenty-three Board matters pending before the Courts; twenty-two of them at Divisional Court; and one matter seeking leave to the Court of Appeal.

During the 2013-2014 fiscal year, there were sixteen new applications to the Divisional Court for judicial review of Board decisions and no stay applications were filed. Leave to appeal was sought in six cases to the Court of Appeal and two cases were before that court on its merits. Leave to appeal to the Supreme Court of Canada was sought in one case.

The Divisional Court disposed of a total twenty-two applications for judicial review. Four were granted, eleven were dismissed and seven were abandoned. Sixteen

applications for judicial review remained outstanding on March 31, 2014.

Leave to appeal to the Court of Appeal was granted in two cases and dismissed in three others. There are two cases pending appeal on merits.

The Supreme Court of Canada received one case seeking leave, which was pending on March 31, 2014.

This past year, a slightly greater than average number of applications were granted. Some of those decisions have been appealed to the Court of Appeal.

Fiscal Year 2013-14 Type of Case	Caseload			Disposed of				Pending March 31, 2014
	Total	Pending April 1, 2013	Received	Total	Granted	Dismissed	Abandoned	
Total	26	23	25	27	6	14	7	21
Divisional Courts (Merits)	16	22*	16	22	4	11	7	16 ⁺
Divisional Court (Stay)	0	0	0	0	0	0	0	0
Ontario Court of Appeal (Seeking Leave)	7	1	6	5	2	3	0	2
Ontario Court of Appeal (Merits)	2	0	2	0	0	0	0	2
Supreme Court of Canada (Seeking Leave)	1	0	1	0	0	0	0	1
Supreme Court of Canada (Merits)	0	0	0	0	0	0	0	0

* Includes three applications for judicial review (Khaiter No.1, 2 and 3) dismissed on a motion by trade union to a single judge of Divisional Court. Khaiter is seeking leave to have dismissal overturned by a three-judge panel.

⁺ See first Footnote (*)

Figure 14 – Court Activity

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 the loss of some full-time Board Members, Vice-Chairs and Mediators part-way through the budget year. Services expenses were higher than expected largely due to increased IT costs related to the development of a new

case management system and to the increased use of “per-diem” Board members and Vice-Chairs.

Fiscal Year – 2013/2014

All figures in \$000.0 thousand

Non-Tax Revenue	2013-2014 Revenue
Construction Grievance	475.0
Publications	16.8
Subscriptions	8.0
Total	499,835.0

Figure 16

Account	Final Allocation*	Actual Expenditures**	Variance	% Variance
Salaries & Wages	8,737.2	7,620.0	1,117.2	12.8%
Benefits	1,014.7	1,073.4	-58.7	-5.8%
ODOE:				
Transportation & Communication	542.9	348.9	194.0	35.7%
Services (incl. Lease & IT charges)	3,946.7	4,864.7	-918	-23.3%
Supplies & Equip	116.4	62.2	54.2	46.5%
Total ODOE	4,606.0	5,275.9	-669.9	-14.5%
GRAND TOTAL	14,357.9	13,969.3	338.6	2.7%

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

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

Figure 15

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.

Measure	Standard / Target	2014-2015 Commitments	2013-2014 Achievements
<u>Fiscal Measures:</u> % variance between year end allocation and expenditure	Less than 2% variance between year end allocation and expenditure	Less than 2% variance between year end allocation and expenditure	Actual: 2.7 % variance Approved budget = 14,357.9 Actual expenditure = 13,969.3
<u>Program Effectiveness Measures:</u> Meeting legislated time lines	90% Industrial cert. votes held within 5-7 days. 95% held within 7-10 days 5% or less held within more than 10 days	90% Industrial cert. votes held within 5-7 days. 95% held within 7-10 days 5% or less held within more than 10 days	Actual: 97.8 % of votes held within 5-7 days or less 98 % of votes held within 7-10 days or less 2 % of votes held in more than 10 days
% of LRA cases settled by mediation	85% of LRA cases settled through mediation	85% of LRA cases settled through mediation	Actual: 79.3%
% of ES and HS appeal cases settled by mediation	ESA (Appeals) cases = 75% OHS (Appeals) cases = 75% OHS (Complaints) cases = 75%	ESA (Appeals) cases = 75% OHS (Appeals) cases = 75% OHS (Complaints) cases = 75%	Actual: 81% - ESA Appeals 88% - OHS appeals 88.5% - OHS Complaints
% of judicial reviews upheld	90-100% of judicial reviews upheld Board decision	90-100% of judicial reviews upheld Board decision	Actual: 82% based on 22 disposed of cases. Please see Court Activity section for details

Figure 17

Accountability Statement

The OLRB's Annual Report for the fiscal year ending March 31, 2012 was prepared under my direction for submission to the Minister of Labour in accordance with the ***Agency Establishment and Accountability Directive – 2010***, 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 Agency Establishment and Accountability 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, 2013 to March 31, 2014.

For More Information

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