

ONTARIO LABOUR RELATIONS BOARD

Annual Report
2022-2023



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.

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Chair's Message

I am pleased to be able to present in the pages that follow a comprehensive outline of the activities of the Ontario Labour Relations Board during the fiscal year April 1, 2022 to March 31, 2023. I am most grateful to the Board's Registrar and Deputy Registrar – Catherine Gilbert and Ursula Boylan – for their work in putting this Report together. I want to make it clear, however, that if there are any errors in the Report, I'm the person responsible.

In looking for words or expressions to best describe what transpired at the Board during the past fiscal year, “steady as she goes” and “back to the future”, probably say it best. Throughout the past fiscal year the Board continued to operate virtually. It was able to fulfill its mandate and provide service to its various stakeholders efficiently and competently thanks to the efforts of all of its hardworking dedicated employees and Order in Council appointees. I cannot say enough good things about them. I am so proud and privileged to work with all these great people.

The information in the pages that follow speaks for itself. It gives a very detailed account of what the Board is all about – the jurisdiction it has; its organizational structure; the types of cases it deals with; a variety of statistical information regarding the cases it dealt with over the past year and also summaries of various key decisions it issued over the past year. Some of the interesting points to note from the Report are:

- Over the course of the last fiscal year, the Board received 2,860 new applications. *Labour Relations Act, 1995* cases amounted to 71% of these new applications. *Employment Standards Act, 2000 (“ESA”)* cases amounted to 19% and *Occupational Health and Safety Act* cases amounted to 9%.
- While the number of new cases in the past fiscal year increased by 18.5% over the prior fiscal year (2,860 vs. 2,413) this number is still 19.9% below the number of new cases the Board had in the last fiscal year before the pandemic began (3,571). Nevertheless the number of new cases continues to rise and it is anticipated that the Board will be back to pre-pandemic levels sooner rather than later.
- Nearly all types of cases experienced a drop in numbers but the largest reduction took place with respect to *ESA* appeals. In the last fiscal year prior to the pandemic, there were 1,067 new *ESA* appeals filed whereas in this past fiscal year there were 541 new *ESA* appeals – a drop of 49%. The percentage reductions in new cases over the same period for other matters the Board frequently deals with include health and safety appeals – 40.2%; health and safety reprisals – 26.2%; construction industry grievances – 10.6%; unfair labour practices – 9% and certification applications – 6.5%. On the other hand, sale of business/related employer new cases increased by 19.8% and new cases involving union jurisdictional disputes increased by 19.5%. Overall, 88.3% of the 19.9% reduction in the number of new cases (last fiscal year prior to the pandemic compared to the past fiscal year) were cases involving non-union employees .

Chair's Message (continued)

- The Board's performance metrics continued to be excellent this past fiscal year. These include:
 - 99.6% of new files opened within two days after an application is filed in accordance with the Board's Rules of Procedure;
 - 90.2% of all cases settled without final litigation;
 - 100% of Board decisions were upheld on judicial review;
 - 93.9% of industrial certification votes held within 5-7 days after an application for certification was filed;
 - 97.6% of all industrial certification votes were held within 10 days.

- Electronic voting has now been firmly established as the norm, although it is recognized that an in-person vote might still be the most appropriate way to proceed in a given case. The Board conducted its first electronic vote in November 2017. 14 electronic votes were held in 2018/2019; 40 in 2019/2020; 237 in 2020/2021; 282 in 2021/2022 and 310 were conducted this past fiscal year. There were two in-person votes conducted this past fiscal year. The average percentage of voter turnout for electronically conducted votes conducted during this past fiscal year was 91.3% whereas, for the two in-person votes, the percentage of voter turnout was 75.6% .

While the pandemic continued throughout the course of the fiscal year, its impact abated as the year progressed. This, in turn, allowed the Board to first contemplate, and then actually put into action, a plan for how the Board's operations were to be conducted as we transitioned out of the pandemic and beyond. As many pandemic-related restrictions were lifted in the province, the Board reviewed its operations, including the conduct of mediations and hearings, and it also considered how best to adopt some of the changes and advances made during the pandemic and make them permanent. It consulted widely with its stakeholders. It invited written submissions from stakeholders, held a Town Hall meeting and met with its Advisory Committee. The Board then carefully considered all the information that was provided and determined the best way forward. Pages 12 and 13 of the Report summarize many of the new procedures, processes and policies that were implemented as the Board transitioned out of the pandemic.

Chair's Message (continued)

In November 2022, the Board announced a gradual return to in-person hearings commencing with requests on consent as of February 2023. While the Board was able to operate virtually throughout the pandemic with success, it determined that a return to in-person hearings was important for a number of reasons including access to justice, the particular context and mandate of a labour relations board, the relationships it fosters and its institutional needs. As of April 3, 2023, all new matters are being scheduled for in-person hearings and mediations with some exceptions where video hearings or mediation would continue to be the presumptive method of proceeding. Requests to change the mode of hearing may be made and are generally determined by the Registrar. Detailed information regarding all of this and much more can be found on the Board's website: www.olrb.gov.on.ca

It should be noted that the terms of a number of the Board's Vice Chairs ended during this past fiscal year, namely, Adam Beatty, Kelly Waddingham, Maurice Green and Brian McLean. Some of them are still with us for a while longer as they finish cases on which they were seized. All of these individuals will be greatly missed. They were excellent colleagues, provided great service and contributed in many different ways to the success of the Board. I should also mention that Lindsay Lawrence was appointed as Alternate Chair of the Board in November 2022. The Board had been without an Alternate Chair for 20 months and accordingly Lindsay's appointment was indeed welcome news. Lindsay has made tremendous contributions to the Board during her relatively short time here as a Board Solicitor, Vice Chair and now Alternate Chair.

As I said in last year's message, I intend to do everything I can to ensure that the Board continues to provide the excellent service that the community expects and deserves. I encourage everyone to contact the Board (and me) with any comments, concerns or suggestions you may have. Don't be shy.

Brian O'Byrne

Chair

Ontario Labour Relations Board - Overview

The Ontario Labour Relations Board (the “Board”) is an independent adjudicative agency of the Government of Ontario. As a tribunal operating at arm’s length from the Ministry of Labour, Immigration, Training and Skills Development, the OLRB mediates and decides cases under more than 25 different workplace and employment-related laws, a complete list of which is attached at Appendix A. 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 later pages.

As an independent adjudicative tribunal, the Board’s mandate is 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 Tribunals 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 ensure the settlement and adjudication of cases before the Board. 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, Immigration, Training and Skills Development’s overarching principles, the Board encourages harmonious relations among employers, employees and trade unions. It acts as expeditiously and fairly as reasonably possible in processing, settling or adjudicating all matters that come before it.

Other Tribunals and Commissions

The Board also has administrative responsibility for another agency whose reporting structures and activities are described in its Annual Reports. The Board administers the Pay Equity Hearings Tribunal (“PEHT”).

The Board is also responsible for providing administrative support to the Education Relations Commission (“ERC”). The ERC provides advice to the Lieutenant Governor in Counsel pursuant to the *School Boards Collective Bargaining Act, 2014 S.O. 2014, c. 5, s. 60*.

Support services for all of these bodies are under the administration of the Director/Registrar.

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:

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 *LRA* 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 directions, jurisdictional disputes, the relationship between parent/national/international unions and their subordinates, 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, Immigration, Training and Skills Development (for wages, overtime, termination or severance pay and various 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 almost all *ESA* matters before the Board. Where mediation is unsuccessful, the Board usually 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 merits of their case.

The Board's Principal Statutes - continued

Occupational Health and Safety Act

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

There are also protections for workers who exercise their rights under the *OHS Act* 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, 2014

This legislation sets out the structure for collective bargaining in the education sector. 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 what are central or local issues, disputes are decided by the Board upon the application of either party or the Crown, as well as any issues arising from the application of 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/or issue other orders as the Board determines are appropriate in the circumstances. The Crown or a party to central bargaining may also apply to the Board to decide if a local term in a collective agreement conflicts with or is inconsistent with a central term in the agreement. The Board has the jurisdiction to hear complaints of alleged violations or failure to comply with the *Act* or those provisions of the *Labour Relations Act* incorporated into it.

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. The Board also has jurisdiction to deal with certain representation issues that arise under the *Act*.

Public Sector Labour Relations Transition Act

The *Public Sector Labour Relations Transition Act (PSLRTA)* was passed in 1997 to cover mergers, amalgamations and other restructuring in three public sectors: municipalities and local boards, school boards and hospitals. The OLRB, upon application, holds a consultation with the affected unions and employers to determine if *PSLRTA* applies and what bargaining units and bargaining agents in the new workplace are appropriate. The Board occasionally directs representation votes to determine the successor bargaining agents.

Other Applications

The Board receives a smaller number of applications under the other legislation it administers. Generally speaking, these are treated in a manner analogous to how the Board deals with the applications already described.

Organization

Vice Chairs, Members and Staff

The OLRB's operations and staff can be broadly divided into: Adjudication, Administration, Mediation Services and Legal Services.

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 for fixed terms. A chart of the OICs working in 2022/2023 and their appointment terms is attached at Appendix B.

The administrative, mediation and legal staff are public servants appointed under Part III of the *Public Service of Ontario Act, 2006*. The Board's Organizational Chart is attached at Appendix C.

Office of the Director and Registrar

The Director/Registrar is the chief administrative officer of the Board. She, along with the Deputy Registrar, is responsible for the overall administration of the Board's business operations, mediation and adjudication. The Director/Registrar, along with the Deputy 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 services.

Information Technology Support

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

Organization

Mediation Services

The Manager, Mediation Services, and Senior Mediators/Mediators (“Mediators”) are responsible for mediating settlements in almost all of the Board’s cases. In addition to settling cases, Mediators assist parties in identifying issues and streamlining the cases that are adjudicated in order to avoid unnecessary litigation. They also, along with the Board’s Vote Officers, carry out the Board’s pre-and post-vote mediation program and conduct representation and final offer votes.

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.

Library Services

The Ontario Workplace Tribunals Library is the library of the Board, the Workplace Safety and Insurance Appeals Tribunal and the Pay Equity Hearings Tribunal and is located at 505 University Avenue, Toronto, 7th floor.

Library holdings related to the Board 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.

Overview of Board Processes

MEDIATION

Almost all applications that are filed with the Board are 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, allows parties more responsibility and ownership of the agreed-to conditions. In 2022/2023, 90% of all disputes coming before the Board were 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 review and assign to a Vice Chair for preliminary review or schedule a consultation/ hearing, where one has not already been scheduled.

PRELIMINARY REVIEW

Some cases are sent to a Vice Chair for preliminary review to consider whether there is a *prima facie* objection or preliminary matter which needs to be decided before scheduling. This may also be done before mediation where appropriate - for example, where it appears the application may have been filed in the wrong jurisdiction.

CONSULTATION

A consultation is a less formal type of adjudication and may take on different forms. The Vice-Chair (adjudicator)

plays a more active role in a consultation than at a hearing and takes greater control over how the proceeding is conducted. The goal of the consultation is to allow the Vice Chair to expeditiously focus in on the issues in dispute. 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.

HEARING

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. In some cases, the Board may determine that a matter may be decided based on written submissions

CASE MANAGEMENT HEARING

As part of the Board's efficient management of files, case management hearings may be scheduled prior to or during the course of a proceeding, in order to determine and direct next steps in the litigation.

INITIAL HEARING DATE

To ensure an efficient and expeditious processing of cases, several types of cases are scheduled for a hearing or consultation when they are initially filed with the Board and the hearing date is sent out together with the Board's confirmation of filing. Such cases may include certification/termination applications in the non-construction sector, unfair labour practices involving the discipline or discharge of alleged union supporters,

construction industry grievances, reprisal complaints under *OHS*A, direction for first contract arbitration applications and ministerial references. Case Management Hearings are scheduled upon application in all construction certification applications or in some other cases where the parties may request it or the Board deems it appropriate. Pre-hearing consultations and consultations for jurisdictional disputes in the construction industry are scheduled at the time the Board sends out its confirmation of filing.

EXPEDITED HEARING

During the construction open-period, expedited hearings are set at the time of confirmation of the filing of each application. However, this is not the only hearing which is scheduled on an expedited basis. Applications for strike/lockout are heard within a day or two, as circumstances require, and hearings into applications for interim orders may be held within four to six days. Cases involving the discharge of employees are given priority scheduling.

OPEN TO THE PUBLIC

Consultations, case management hearings and hearings are open to the public, save for exceptional circumstances. 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.

Transition Out of the Pandemic - Further Modernization

As many pandemic-related restrictions were lifted in the province over the course of 2022/2023, the Board reviewed its operations, including the conduct of mediations and hearings, to consider how best to adopt some of the changes and advances made during the pandemic and make them permanent. It invited submissions and held a Town Hall in September 2022 and considered the stakeholder submissions as it determined the way forward.

Some of the transitions and changes to the operations of the Board in 2022/2023 include:

- As of April 2022, OPS staff were directed to make a gradual return to the workplace (1-2 days per week) and by mid-May 2022 staff were required to attend at the office 3 days a week.
- As a result of staff being in the office each day, the Board was able to process all applications, responses and submissions, whether or not they were filed electronically. Staff continued to upload all submissions to the electronic files, which are accessible to all staff and OICs at the Board.
- The Board's Rules of Procedure, Information Bulletins, confirmations of filing, notices and website were reviewed on an ongoing basis to ensure that they were up-to-date and met the operational realities and changing circumstances.
- As of September 2022, parties were no longer permitted to initiate proceedings by email, except with consent of the responding parties. In addition, parties were no longer required to file a form certifying that an email address for a responding party was operational. The Board also announced that filing by facsimile transmission is no longer permitted.
- After inviting written submissions, the Board also held a Town Hall with stakeholders in September 2022 about a gradual return to in-person hearings and mediations. Following this a notice to the community was posted on the website in November 2022, outlining that parties could request that a matter proceed in person, on consent, as of February 1, 2023 and the gradual return to in-person hearings and mediations.
- All applications for certification and termination continued to be permitted to be filed electronically and be accompanied by electronic membership evidence and electronic signatures of employees not wishing to be represented by the union. All (but one) representation votes were held electronically in 2022/2023.
- Applications for review under the *Employment Standards Act* were processed, and issues of timeliness or payment of money into trust caused specifically by the pandemic were addressed on a case by case basis.
- Almost all mediations were held by video or by phone or email. In-person mediations began in September 2022 and a number were held after that on request. Almost all hearings were held by video. The first in-person hearing was held in March 2023.
- Various procedures to deal with the filing of large volumes of documents through the use of a third party cloud tool (such as Drop Box, Google Drive or Microsoft OneDrive) were revised and further developed.
- The attachment size for all forms was increased from 7 MB to 15MB in December 2022.

Transition Out of the Pandemic – Further Modernization

- A protocol for the naming of documents was posted on the Board’s website in February 2023, so that documents filed and uploaded into the electronic file would be easier to identify for staff and OICs when reviewing the electronic file.
- Processes were updated to streamline interpretation for the video hearings (French language, American Sign Language) and livestreaming hearings of particular public interest on YouTube. There were 22 hearing days livestreamed on YouTube in 2022/2023.
- An Access Terminal was provided at the Board’s offices for parties who did not have a computer or reliable WiFi so that they could participate in the video hearing, when in-person hearings were not occurring.
- Significant work was undertaken to prepare the Board for the gradual return to in-person hearings and mediations in the spring of 2023. Multiple monitors were installed in several hearing rooms in order to parties to display their electronic documents during the hearing, in an effort to move away from the need for paper files.
- In February 2023, in person orientation sessions were offered by the Board for stakeholders to allow them to come to the Board’s offices and familiarize themselves with the new electronic document sharing system to be used at in-person hearings.
- Microphones and audio were upgraded in three hearing rooms to provide better sound quality during in-person hearings. Wifi was also upgraded to ensure consistency of service reception when multiple parties in multiple hearing rooms are using it at the same time.

Applications related to COVID

In comparison with previous years, the number of applications which were identified as relating directly to COVID-19 decreased dramatically in 2022/2023. As compared with 2020/21 (234 applications) and 2021/22 (167 applications), there were 47 applications filed at the Board in 2022/2023 in which COVID was identified as the main source of the litigation. The following is a breakdown of the case types filed:

- Health and Safety appeals (including suspensions) - 2
- Reprisal applications - 11
- Employment Standards Appeals - 6
- Unfair labour practice complaints (including 24 duty of fair representation complaints) - 25
- Interim applications - 2
- Referrals of Construction Industry grievances - 1

Of the cases filed in 2021/2022 which were identified as being COVID-related, only 3% remain to be determined and closed.

Key Activities

Achievement of Performance Measures

A. Meeting Legislated Timelines for Industrial Certification Votes

2022/2023 Commitment

- 90% industrial certification votes held within 5-7 days
- 95% held within 10 days
- 5% or less held within more than 10 days

2022/2023 Achievement

- 93.9% of industrial certification votes held within 5-7 days
- 97.6% held within 10 days
- 1.4% held within more than 10 days

B. Efficient Case Processing

2022/2023 Commitment

- 80% of new files opened within two days after an application is filed in accordance with the Board's Rules of Procedure
- 80% of confirmations of filing of applications sent to parties within four days of application filed in accordance with the Board's Rules of Procedure (except ESA appeals)

2022/2023 Achievement

- 99.6% of new files opened within two days after an application is filed in accordance with the Board's Rules of Procedure
- 91.3% of confirmations of filing of applications sent to parties within four days of application filed in accordance with the Board's Rules of Procedure (except ESA appeals)

C. Efficient Mediation Assignment

2022/2023 Commitment

- 80% of mediator assignments are made within three business days after an application is filed in accordance with the Board's Rules of Procedure

2022/2023 Achievement

- 92.1% of mediator assignments made within three business days after an application is filed in accordance with the Board's Rules of Procedure

Key Activities

Achievement of Performance Measures

D. Mediation Results

Mediation – Percentage of Cases Resolved without Final Hearing

2022/2023 Commitment

- 80-85% of cases settled without final litigation at the Board
- LRA cases: 85%
- ESA (appeals): 75%
- OHSA (appeals): 80%
- OHSA (reprisal complaints): 80%

2022/2023 Achievement

- 90.2% of all cases settled without final litigation
- LRA cases: 89.8%
- ESA (appeals) cases: 89.7%
- OHSA (appeals) cases: 94.2%
- OHSA (reprisal complaints) cases: 94.9%

E. Adjudication- Judicial Review

Adjudication - Percentage of decisions upheld:

- **2022/2023 Commitment:** 90-100%
- **2022/2023 Achievement:** 100%

F. Fiscal Measures

2022/2023 Commitment

- Less than 2% variance between year-end allocation and expenditure.

2022/2023 Achievement

- Actual variance: 2.2%
- Approved budget: \$12,751.4M
- Actual expenditure: \$12,475.7M

Key Activities

IT Initiatives

The Board continues to work to improve service delivery through information technology to the public. In recent years, the Board introduced electronic filing for Board forms, submissions, attachments, and fee payments for construction-industry grievances making the Board more accessible to the public and its stakeholders. The Board’s website has also been modernized to provide greater access to its services and information to the public.

In 2022/2023, 24,012 forms and submissions were filed electronically, accounting for 93.4% of all forms and submissions filed. (Figure 1) The remainder were filed by mail or courier, hand-delivered or filed by email in response to particular circumstances. The Board no longer has fax machines and relies on more efficient means of filing such as electronic filing. The attachment size limit for all forms was increased from 7 MB to 15 MB which made it easier for parties to file their attachments. A document naming protocol was announced in February 2023 to ensure e-filed documents were more easily identifiable for staff and OICs when reviewing an electronic file.

All Board staff and OICs were issued laptops and/or VPNs after being sent home to work remotely at the commencement of the pandemic. As a result, the Board continued to deliver services through an electronic format. Electronic payment for grievance hearings as well as electronic summons to witness were developed to replace services provided in-person and will be continued.

The Board’s premises have been modernized and are now equipped for in-person hearings and mediations. Some types of hearings will continue to be held by video, with a view to the nature of the file and the location of the parties. Many hearing rooms are now equipped with multiple monitors for each party to utilize during hearings and upgraded electrical service to support an electronic service platform. Documents may now be electronically shared and viewed during an in-person hearing. Orientation sessions were held for the Board’s stakeholders prior to implementing the use of electronic documents at in-person hearings. Several hearing rooms are now equipped with a digital audio system which include TTY capabilities and modernized microphone systems.

The Board has begun to build its statistical data and reporting capabilities on a Power BI platform, which will allow for future access to real time data.

To address the needs of parties who did not have access to equipment needed to participate in a video hearing, or reliable Wifi, at a time when the Board was not open for in-person hearings, the Board allowed parties to attend at the Board’s premises to use an “access terminal”, thereby enabling individuals to participate in the video hearing so that it was not delayed. This access improvement remains in place.

Where there is significant public interest in attending a hearing, the Board will offer a channel created to live-stream a video hearing where warranted, thus avoiding disruptions to video hearings while still allowing for public hearings. The Board has upgraded its WiFi capability to allow for better connectivity during hearings with minimal disruption for users.

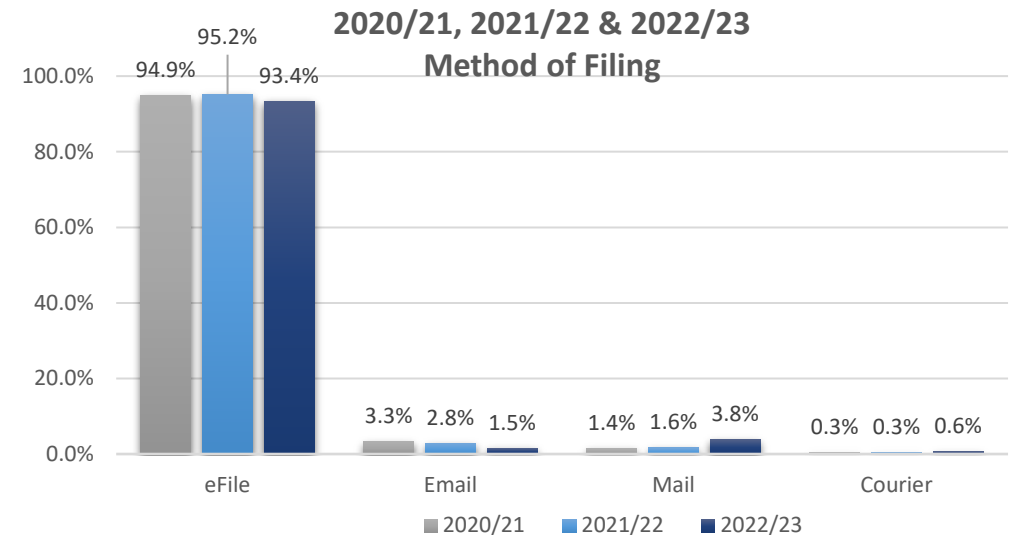


Figure 1

Key Activities

Electronic voting

The Board began conducting electronic votes in November 2017. During the pandemic, the Board held only electronic votes in 2020/2021 (237) and 2021/2022 (282).

In 2022/2023 the Board continued to hold almost all votes electronically. The Board conducted 310 electronic votes, including six final offer votes, one vote under the *Public Sector Labour Relations Transition Act*, one ratification vote under *Colleges Collective Bargaining Act* and four votes pursuant to the sale of business provisions of the *Labour Relations Act*. In addition, one final offer vote and one displacement vote were held in-person.

In certification, termination and displacement applications, a total of 13,208 ballots were cast electronically, which includes online and telephone ballots. The average percentage of voter turnout for electronically-run certification, termination and displacement votes was 91.3%. This is in contrast to a voter turnout of 77.1% for the displacement vote held in person.

In 2022/2023, 93.9% of votes in industrial certification and 93.5% of industrial termination applications were held within seven days. Board vote officers and mediators manage the electronic voting process and staff the Board's Help Desk, as needed.

The Board received eight requests for final offer votes during the fiscal year and six votes were held (as two requests were withdrawn). Five votes were conducted electronically and one was conducted in-person. Over the six votes, there were 2,789 ballots cast. Average voter turnout among the five electronically-conducted votes was 85.4%, notably higher than the 74% turnout for the sole in-person vote. Of the six files disposed of, the employees voted to reject the collective agreement in four cases and voted in favour of the collective agreement in two cases.

The Board also conducted one electronic vote under the *Public Sector Labour Relations Transition Act*. In total, there were 492 ballots cast in this vote, for an 82.3% voter turnout. Lastly, the Board conducted two votes pursuant to section 69 of the *Labour Relations Act*, with a 94.5% average voter turnout.

Key Activities

Hearings Scheduled and Hearings Held

In 2022/2023, there were 1,524 hearings scheduled and 1,864 hearings held.

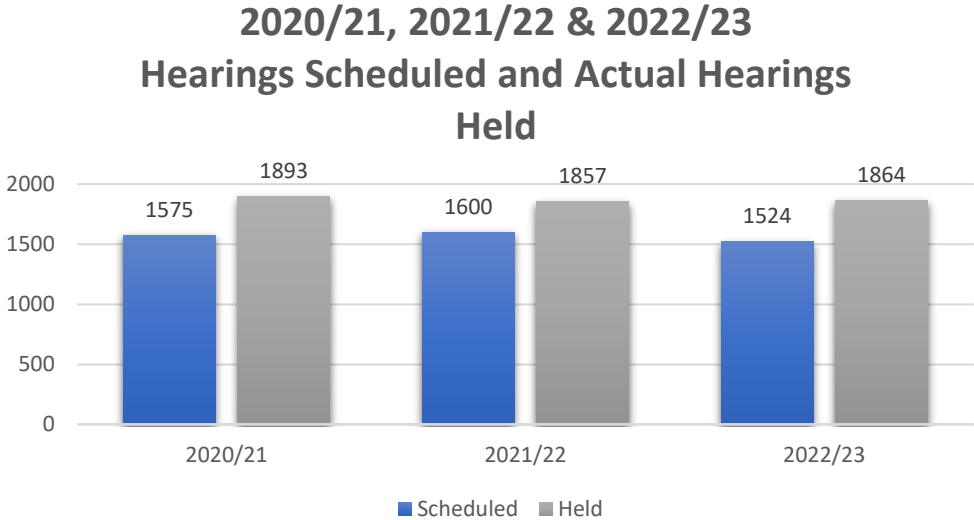


Figure 2

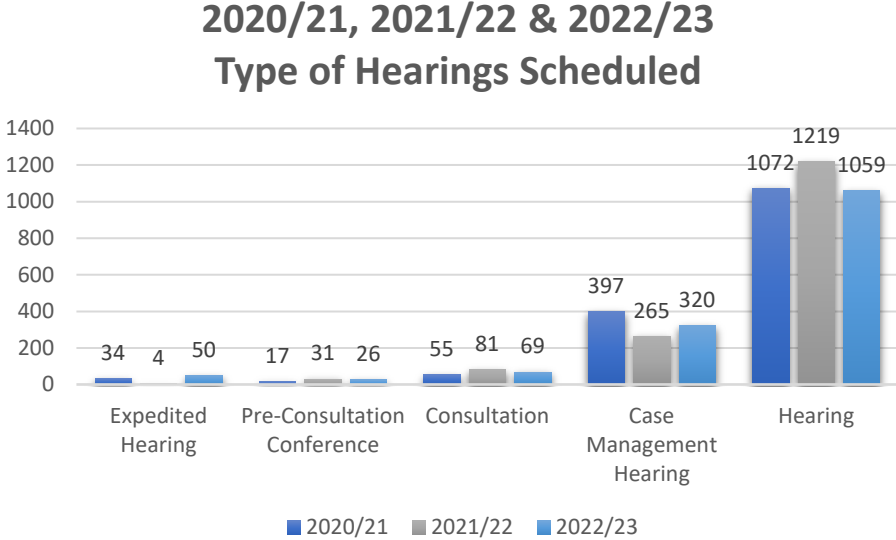


Figure 3

*When cases are scheduled for hearing together, this is counted as one hearing scheduled. When the hearings are held together, they are counted separately.

Key Activities

Hearings Scheduled and Hearings Held (continued)

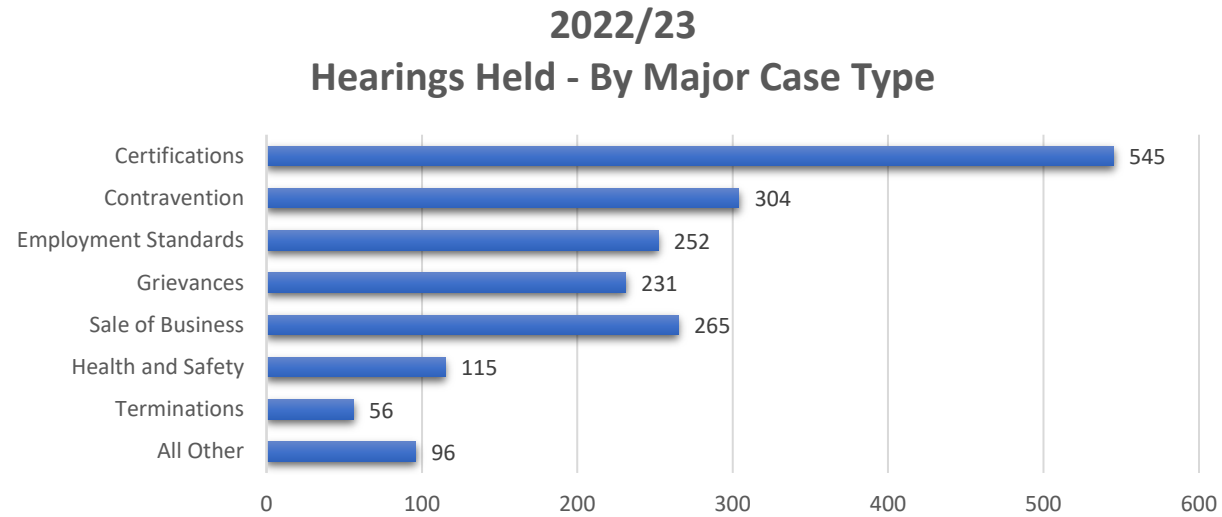


Figure 4

External Review and Requests for Access to Documents

Court Activity

On April 1, 2022, there were forty-four Board matters pending before all levels of the Courts.

During the 2022-2023 fiscal year, there were seventeen new applications for judicial review of Board decisions filed with the Divisional Court.

Fourteen applications for judicial review were disposed of by the Divisional Court. Eleven were dismissed on the merits and three were abandoned. Thirty-nine applications for judicial review remained outstanding at the Divisional Court on March 31, 2023.

Two motions for leave to the Court of Appeal were filed during the fiscal year. One was dismissed. Six remain outstanding.

Two Appeals at the Court of Appeal were allowed. Those decisions restored four Board decisions that were previously quashed by the Divisional Court.

The Supreme Court of Canada dismissed one motion for Leave to appeal. Three additional motions for leave to appeal were filed with the Supreme Court of Canada.

Type of Case	Caseload			Disposed of				Pending March 31, 2023
	Total	Pending April 1, 2022	Received	Total	Granted	Dismissed	Abandoned	
Total	66	44	22	18	2	13	3	48
Divisional Court (Merits)	53	36	17	14	0	11	3	39
Divisional Court (Stay)	0	0	0	0	0	0	0	0
Ontario Court of Appeal (Seeking Leave)	7	5	2	1	0	1	0	6
Ontario Court of Appeal (Merits)	2	2	0	2	2	0	0	0
Supreme Court of Canada (Seeking Leave)	4	1	3	1	0	1	0	3
Supreme Court of Canada (Merits)	0	0	0	0	0	0	0	0

Figure 5

Ombudsman Review

The Ontario Ombudsman has the authority to investigate complaints about the Ontario Government and its agencies, including the Board. There were no new or outstanding investigations in 2022/2023.

Information and Privacy Commissioner of Ontario

The Information and Privacy Commissioner of Ontario has the authority to investigate privacy complaints about the Ontario Government and its agencies, including the Board. There were no new investigations by the IPC in 2022/2023.

Requests for Access to Documents in the Board's Adjudicative Files

Since the Superior Court Decision in *Toronto Star v. AG Ontario*, 2018 ONSC 2586 (CanLII) and the subsequent enactment of the *Tribunal Adjudicative Records Act* ("TARA"), the Board has received an increased number of requests for documents in its adjudicative files. The task of reviewing entire files and each document in detail has proven time consuming and requires significant Board resources.

During the 2022/2023 fiscal year, the Board received and processed 44 requests for access to documents in a total of 58 Board files. Many of the requests sought access to multiple Board files. Those making requests included parties to a case, the media, other organizations, lawyers not involved in the file and members of the public. The requests sought records in active files currently being heard by Vice Chairs, files which had been adjourned and older closed files. Many of the files were complex and contained hundreds of pages, if not boxes, of documents which were then reviewed by the Board's solicitors, Vice Chairs and/or Chair. In a small number of cases, parties were notified and submissions were directed which were then also reviewed. The Board issued a decision in one case which further defined the scope of the adjudicative records. Requests were processed in accordance with the Board's Policy, TARA and the Board's Rules of Procedure, as applicable.

Overview of Board's Caseload

Applications Received

The Board received **2860** new applications this year, an increase of **18.5%** from 2021/2022.

There were 1361 additional cases remaining open from previous years and 119 cases which were re-opened*, resulting in a total number of **4340** files which were processed before the Board this year. (Figures 6 and 7)

The majority of cases filed in 2022/2023 fall under five main categories:

1. Under the *Labour Relations Act*, Certification and Termination of bargaining rights - 577 applications for certification and 118 applications for termination of bargaining rights;
2. Contraventions of the *LRA* – 482;
3. Under the *LRA*, Referrals of Construction Industry Grievances – 607;
4. Under the *ESA*, Appeals of decisions of Employment Standards Officers – 541;
5. Under the *OHSA*, Complaints under s. 50 -214 and Appeals of Inspector's orders/suspension applications – 43.

Of the new applications filed in 2022/2023, 71% were under the *Labour Relations Act*, 19% were under the *Employment Standards Act* and 9% were under the *Occupational Health and Safety Act*.

*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 a result of the case management system.

**In Figure 6, the Total Closed column reflects the activity on a file: a file may have been closed more than once. In Figure 8, the Total Closed column reflects the final disposition of an individual case before hearing. Each unique case is only recorded as closed once.

Applications Disposed of With or Without a Hearing

Of the 4340 files before the Board, 2824 were disposed of** (with/without a hearing), for example, by final decision, settlement, withdrawal or abandonment and then closed.

Consequently, 1518 cases were carried into 2023/2024. This number includes 238 cases which have been adjourned sine die, so there are 1280 active files pending.

The Board continues to work toward its goal to increase the percentage of number of cases disposed of in a year, and to that end, looks for more efficient ways to case manage, schedule, and deploy its resources.

The charts which follow provide greater detail on the processing of cases by individual category.

Time to Dispose of Cases

The Board continues to analyze and track the time to dispose of cases.

In 2022/2023, 52.3% of cases were disposed of within approximately 90 calendar days of receipt of application and 67.1% were disposed of within six months (Figure 30). This can be compared with the previous year in which 49.4% were disposed on within approximately 90 days and 64.6% within 6 months. In 2020/2021, 50.4% of cases were disposed of within approximately 90 days.

However, these are overall averages and an analysis of various different case types shows that the time to dispose of cases varies considerably depending on the type and complexity of the case.

For example, 83% of industrial certification/termination applications were disposed of within 3 months and 90% within six months and 60% of reprisal cases under the *Occupational Health and Safety Act* were disposed of within three months and almost 80% within six months. The Board has undertaken further analysis of the data in this regard. (See Figures 31-37)

Total Applications Received, Disposed and Pending (1/2)

	Total Received	Re-Opened	Pending April 1, 2022	Total Caseload	Total Closed	Granted / Partially	Dismissed	Terminated	Settled / Withdrawn / Abandoned	Advice Provided	Work Assignment Altered	Not Processed	Pending	Sine Die	Pending March 31, 2023	Total Pending + Sine Die
	2860	119	1361	4340	2824	612	396	141	1563	6	1	7	98	238	1280	1518
Accreditation (Construction)	8	1	2	11	11	11	0	0	0	0	0	0	0	0	0	0
Certification	577	28	237	842	559	372	78	4	95	1	0	0	9	10	273	283
Certification (Construction - Card Based)	304	13	150	467	290	213	17	1	52	0	0	0	7	5	172	177
Certification (Construction - Open Period)	27	0	17	44	31	13	15	0	2	0	0	0	1	0	13	13
Certification (Construction)	24	4	23	51	22	10	7	1	3	0	0	0	1	1	28	29
Certification (Industrial)	222	11	47	280	216	136	39	2	38	1	0	0	0	4	60	64
College Collective Bargaining Act	1	0	2	3	3	0	0	0	3	0	0	0	0	0	2	2
Certification	0	0	1	1	0	0	0	0	0	0	0	0	0	0	1	1
College Vote	1	0	0	1	1	0	0	0	1	0	0	0	0	0	0	0
Violation of Colleges Collective Bargaining Act	0	0	1	1	2	0	0	0	2	0	0	0	0	0	1	1
Construction Grievance	607	41	239	887	558	87	19	14	368	0	0	1	69	144	185	329
Employment Protection for Foreign Nationals	11	0	3	14	13	0	2	1	10	0	0	0	0	0	1	1
Employment Standards	541	10	223	774	536	28	48	55	392	0	0	5	8	4	234	238
Employment Standards - Appeal (Director)	26	0	13	39	23	1	4	2	12	0	0	0	4	0	16	16
Employment Standards - Appeal (Employee)	200	5	88	293	192	9	19	13	147	0	0	4	0	4	97	101
Employment Standards - Appeal (Employer)	315	5	120	440	320	17	25	40	233	0	0	1	4	0	120	120
Referral under Employment Standards Act	0	0	2	2	1	1	0	0	0	0	0	0	0	0	1	1
Essential Services	2	0	0	2	0	0	0	0	0	0	0	0	0	0	2	2
Essential Services Agreement - Ambulance	2	0	0	2	0	0	0	0	0	0	0	0	0	0	2	2
Health & Safety Appeals	43	4	77	124	69	0	9	3	56	0	0	0	1	21	34	55
Appeal of Inspector's Order	37	3	72	112	60	0	7	2	50	0	0	0	1	20	32	52
Suspension of Order	6	1	5	12	9	0	2	1	6	0	0	0	0	1	2	3
Interim Order	31	0	2	33	27	3	5	1	18	0	0	0	0	0	6	6
Jurisdictional Dispute	49	1	46	96	33	2	2	7	21	0	1	0	0	10	53	63
Jurisdictional Dispute (Construction)	49	1	43	93	33	2	2	7	21	0	1	0	0	10	50	60
Jurisdictional Dispute (Industrial)	0	0	3	3	0	0	0	0	0	0	0	0	0	0	3	3
Ministerial Referrals	1	0	7	8	5	0	0	0	2	3	0	0	0	0	3	3
Ministerial Referral (General)	1	0	5	6	4	0	0	0	2	2	0	0	0	0	2	2
Ministerial Referral (HLDA)	0	0	2	2	1	0	0	0	0	1	0	0	0	0	1	1
Public Sector Labour Relations Transition Act	5	0	4	9	6	3	1	1	1	0	0	0	0	0	3	3
PSLRTA (Bargaining Units/Bargaining Agents)	5	0	4	9	6	3	1	1	1	0	0	0	0	0	3	3
Sale of Business/Related Employer	115	10	125	250	113	21	11	2	79	0	0	0	0	8	129	137
School Boards Application	2	0	0	2	1	0	0	0	0	1	0	0	0	1	0	1

Total Applications Received, Disposed and Pending (2/2)

	Total Received	Re-Opened	Pending April 1, 2022	Total Caseload	Total Closed	Granted / Partially	Dismissed	Terminated	Settled, Withdrawn, Abandoned	Advice Provided	Work Assignment Altered	Not Processed	Pending	Sine Die	Pending March 31, 2023	Total Pending + Sine Die
Termination	118	0	20	138	120	36	48	17	16	0	0	1	2	1	17	18
Termination (Construction)	12	0	1	13	11	0	7	2	1	0	0	0	1	0	2	2
Termination (Construction - Open Period)	31	0	5	36	31	14	8	1	7	0	0	0	1	0	5	5
Termination (Industrial)	70	0	5	75	71	20	32	13	5	0	0	1	0	0	4	4
Non-Construction Employer - Termination	0	0	1	1	0	0	0	0	0	0	0	0	0	0	1	1
Termination - Other (Non Vote-Based)	5	0	8	13	7	2	1	1	3	0	0	0	0	1	5	6
Unfair Labour Practices	482	16	287	785	507	19	136	19	324	0	0	0	9	26	252	278
Duty of Fair Referral	2	0	3	5	2	0	2	0	0	0	0	0	0	0	3	3
Duty of Fair Representation	232	4	102	338	243	1	109	14	119	0	0	0	0	12	83	95
Failure to Comply with Settlement	18	0	10	28	20	0	3	0	17	0	0	0	0	0	8	8
Unfair Labour Practice	204	10	166	380	217	16	19	4	170	0	0	0	8	11	152	163
Unfair Labour Practice (Bad Faith)	17	0	3	20	12	1	1	0	9	0	0	0	1	2	6	8
Unlawful Lockout	1	0	2	3	3	0	0	0	3	0	0	0	0	0	0	0
Unlawful Strike	8	2	1	11	10	1	2	1	6	0	0	0	0	1	0	1
Unlawful Reprisals	217	5	71	293	215	3	30	16	166	0	0	0	0	9	69	78
Health and Safety - Inspector Referral	9	0	1	10	9	0	0	0	9	0	0	0	0	0	1	1
Health and Safety Reprisal	205	5	68	278	201	3	27	14	157	0	0	0	0	9	68	77
Reprisal - Long Term-Care Homes Act	0	0	1	1	1	0	1	0	0	0	0	0	0	0	0	0
Reprisal - Public Service of Ontario Act	1	0	1	2	2	0	1	1	0	0	0	0	0	0	0	0
Reprisal - Environmental Bill of Rights Act	1	0	0	1	1	0	0	1	0	0	0	0	0	0	0	0
Reprisal - Public Inquiries Act	1	0	0	1	1	0	1	0	0	0	0	0	0	0	0	0
Votes	8	3	0	11	8	4	0	0	4	0	0	0	0	0	2	2
Last Offer Vote	8	3	0	11	8	4	0	0	4	0	0	0	0	0	2	2
Misc.	42	0	16	58	40	23	7	1	8	1	0	0	0	4	15	19
Breach of Settlement under section 105 or 141 of PSOA	1	0	0	1	1	0	1	0	0	0	0	0	0	0	0	0
Consent to Institute Prosecution	2	0	0	2	2	0	2	0	0	0	0	0	0	0	0	0
Early Termination of Collective Agreement	12	0	0	12	12	11	0	1	0	0	0	0	0	0	0	0
Employee Status	3	0	2	5	2	0	0	0	2	0	0	0	0	0	3	3
Failure to Furnish Financial Statement	2	0	0	2	2	0	1	0	1	0	0	0	0	0	0	0
First Agreement Direction	13	0	7	20	12	6	1	0	5	0	0	0	0	3	5	8
Project Agreement	1	0	1	2	2	0	1	0	0	1	0	0	0	0	0	0
Religious Exemption	1	0	0	1	0	0	0	0	0	0	0	0	0	0	1	1
Sector Dispute (Construction)	6	0	4	10	4	3	1	0	0	0	0	0	0	1	5	6
Successor Trade Union	1	0	2	3	3	3	0	0	0	0	0	0	0	0	0	0
Right of Access	1	0	0	1	0	0	0	0	0	0	0	0	0	0	1	1

Figure 6

Applications Received and Disposed of - 5 Year Comparison

Type of Case	Fiscal Years 2018-19 to 2022-23						Number Disposed of, Fiscal Year					
	Total	2018-19	2019-20	2020-21	2021-22	2022-23	Total	2018-19	2019-20	2020-21	2021-22	2022-23
	15,649	3,930	3,571	2,875	2,413	2,860	16,359	4,098	3,804	3,055	2,578	2,824
Accreditation (Construction)	23	7	2	-	6	8	30	8	5	2	4	11
Breach of Settlement under section 105 or 141 of PSOA	2	1	-	-	-	1	2	1	-	-	-	1
Certification	2,810	641	617	498	477	577	2,995	768	674	537	457	559
College Vote	4	1	-	-	3	-	5	-	1	-	3	1
Consent to Institute Prosecution	4	1	1	-	-	2	5	1	1	1	-	2
Construction Grievance	3,183	769	679	642	486	607	3,368	827	704	696	583	558
Duty of Fair Referral	17	6	5	2	2	2	15	3	7	2	1	2
Duty of Fair Representation	1,004	197	225	130	220	232	1,044	220	233	164	184	243
Early Termination of Collective Agreement	41	5	12	5	7	12	41	5	12	5	7	12
Employee Status	16	6	3	3	1	3	16	3	7	2	2	2
Employment Standards (Appeal)	3,961	1,189	1,067	706	458	541	4,187	1,170	1,168	789	524	536
Essential Services - Crown Employees	0	-	-	-	-	-	4	4	-	-	-	-
Essential Services Agreement - Ambulance	14	4	4	2	2	2	9	-	4	2	3	-
Failure to Comply with Settlement	71	17	17	10	9	18	74	15	20	9	10	20
Failure to Furnish Financial Statement	10	2	3	2	1	2	11	1	2	3	3	2
First Agreement Direction	60	18	5	16	8	13	54	18	3	12	9	12
Foreign Nationals - Appeal	30	2	3	7	7	11	29	1	4	1	10	13
Health and Safety - Appeals	372	65	72	130	62	43	377	64	56	113	75	69
Health and Safety - Inspector Referrals	47	18	14	3	3	9	49	18	14	5	3	9
Health and Safety - Reprisals	1,164	278	278	214	189	205	1,157	259	281	222	194	201
Inadequate Financial Statement	4	1	-	2	1	-	4	-	1	1	2	-
Interim Order	127	34	16	27	19	31	124	34	16	26	21	27
Jurisdictional Dispute	227	40	41	46	51	49	220	48	44	40	55	33
Last Offer Vote	47	15	8	8	8	8	51	19	5	7	12	8
List of Employees	53	53	-	-	-	-	63	63	-	-	-	-
Ministerial Referrals	38	8	12	10	7	1	37	8	10	8	6	5
Ontario College of Trades	1	1	-	-	-	-	2	2	-	-	-	-
Project Agreement	6	1	3	-	1	1	9	3	2	1	1	2
Public Sector Labour Relations Transition Act	30	7	8	4	6	5	41	13	13	4	5	6
Religious Exemption	4	-	2	1	-	1	3	-	2	-	1	0
Reprisal - Environmental Bill of Rights Act	4	1	1	-	1	1	4	1	1	-	1	1
Reprisal - Environmental Protection Act	1	-	-	-	1	-	1	-	-	-	1	-
Reprisal - Long Term-Care Homes Act	4	1	1	2	-	-	4	1	1	1	-	1
Reprisal - Public Inquiries Act	3	-	1	-	1	1	3	-	1	-	1	1
Reprisal - Public Service of Ontario Act	8	-	1	3	3	1	8	-	1	2	3	2
Reprisal - Retirement Homes Act	1	1	-	-	-	-	1	1	-	-	-	-
Review of Structure of Bargaining Units	13	13	-	-	-	-	14	11	3	-	-	-
Right of Access	3	-	1	1	-	1	3	-	1	2	-	-
Sale of Business/Related Employer	549	130	96	115	93	115	557	130	111	115	88	113
School Boards Collective Bargaining Act	7	-	3	2	-	2	6	-	3	1	1	1
Sector Dispute (Construction)	18	6	2	2	2	6	13	3	3	3	0	4
Successor Trade Union	8	2	1	1	3	1	9	3	1	-	2	3
Termination	455	88	111	67	71	118	460	79	114	74	73	120
Unfair Labour Practice	1,151	286	243	207	194	221	1,193	279	262	196	227	229
Unlawful Lockout	5	1	-	1	2	1	6	1	1	1	-	3
Unlawful Strike	41	13	10	5	5	8	43	12	10	7	4	10
Violation of Colleges Collective Bargaining Act	8	1	3	1	3	-	8	1	2	1	2	2

Figure 7

Cases Resolved Without a Final Hearing

Case Type Description	Total Closed	Settled	% of Cases Settled	To Final Hearing / Consultation
Total	2,816	2,540	90.2%	276
Accreditation (Construction)	11	10	90.9%	1
Certification	559	492	88.0%	67
Certification (Construction - Card Based)	290	250	86.2%	40
Certification (Construction - Open Period)	31	28	90.3%	3
Certification (Construction)	22	11	50.0%	11
Certification (Industrial)	216	203	94.0%	13
College Collective Bargaining Act	3	3	100.0%	0
College Vote	1	1	100.0%	0
Violation of Colleges Collective Bargaining Act	2	2	100.0%	0
Construction Grievance	558	516	92.5%	42
Employment Protection for Foreign Nationals	13	11	84.6%	2
Employment Standards	536	481	89.7%	55
Appeal (Director)	23	17	73.9%	6
Appeal (Employee)	192	173	90.1%	19
Appeal (Employer)	320	290	90.6%	30
Referral under Employment Standards Act	1	1	100.0%	0
Health & Safety Appeals & Suspension Requests	69	65	94.2%	4
Interim Order	27	18	66.7%	9
Jurisdictional Dispute	33	23	69.7%	10
Jurisdictional Dispute (Construction)	33	23	69.7%	10
Ministerial Referrals	5	2	40.0%	3
Ministerial Referral (General)	4	2	50.0%	2
Ministerial Referral (HLDA)	1	0	0.0%	1
Public Sector Labour Relations Transition Act	6	5	83.3%	1
Sale of Business/Related Employer	113	95	84.1%	18
School Boards Collective Bargaining Act	1	0	0.0%	1

Case Type Description	Total Closed	Settled	% of Cases Settled	To Final Hearing / Consultation
Termination	120	116	96.7%	4
Termination (Construction)	11	11	100.0%	0
Termination (Construction - Open Period)	31	31	100.0%	0
Termination (Industrial)	71	69	97.2%	2
Termination - Other (Non Vote-Based)	7	5	71.4%	2
Unfair Labour Practices	507	469	92.5%	38
Duty of Fair Referral	2	2	100.0%	0
Duty of Fair Representation	243	230	94.7%	13
Failure to Comply with Settlement	20	19	95.0%	1
Unfair Labour Practice	217	195	89.9%	22
Unfair Labour Practice (Bad Faith)	12	12	100.0%	0
Unlawful Lockout	3	3	100.0%	0
Unlawful Strike	10	8	80.0%	2
Unlawful Reprisals	215	204	94.9%	11
Health and Safety - Inspector Referral	9	9	100.0%	0
Health and Safety Reprisal	202	191	94.6%	11
Reprisal – Public Service of Ontario Act	2	2	100.0%	0
Reprisal - Environmental Bill of Rights Act	1	1	100.0%	0
Reprisal - Public Inquiries Act	1	1	100.0%	0
Misc.	40	30	75.0%	10
Breach of Settlement under section 105 or 141 of PSOA	1	1	100.0%	0
Consent to Institute Prosecution	2	2	100.0%	0
Early Termination of Collective Agreement	12	12	100.0%	0
Employee Status	2	2	100.0%	0
Failure to Furnish Financial Statement	2	1	50.0%	1
First Agreement Direction	12	7	58.3%	5
Project Agreement	2	2	100.0%	0
Sector Dispute (Construction)	4	0	0.0%	4
Successor Trade Union	3	3	100.0%	0

Figure 8

Certification and Termination of Bargaining Rights- Applications Received

Non-construction certification applications before the Board are decided by way of a representation 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 577 applications for certification. These are broken down as follows: 304 construction card-based certification applications (up 74 from 230 the previous year), 24 vote-based construction certification applications (up 7 from the previous year), and 27 applications filed in the Construction Open period in April 2022 .(Figures 6 and 9) The total of 355 construction certification applications represents an increase of 34.5% from 2021/2022. (Figure 10) The number of non-construction certification applications received was 222, which is almost the same as the previous year, which was 213. (Figure 11) .

The Board received a total of 118 applications for termination of bargaining rights, 31 of which were filed in the last month of the Construction Open Period.

	Total Received	Re-Opened	Pending April 1, 2022	Total Caseload	Total Closed	Granted / Partially	Dismissed	Terminated Settled, Withdrawn, Abandoned	Pending	Sine Die	Pending March 31, 2023	Total Pending + Sine Die	
Certification	695	28	257	980	679	408	126	21	112	12	11	290	301
Certification (Construction - Card Based)	577	28	237	842	559	372	78	4	96	9	10	273	283
Certification (Construction - Open Period)	304	13	150	467	290	213	17	1	52	7	5	172	177
Certification (Construction)	27	0	17	44	31	13	15	0	2	1	0	13	13
Certification (Industrial)	24	4	23	51	22	10	7	1	3	1	1	28	29
Termination	222	11	47	280	216	136	39	2	39	0	4	60	64
Termination (Construction)	118	0	20	138	120	36	48	17	16	3	1	17	18
Termination (Construction - Open Period)	12	0	1	13	11	0	7	2	1	1	0	2	2
Termination (Industrial)	31	0	5	36	31	14	8	1	7	1	0	5	5
Non-Construction Employer - Termination	70	0	5	75	70	20	32	13	5	0	0	4	4
Termination - Other (Non Vote-Based)	0	0	1	1	1	0	0	0	0	1	0	1	1
	5	0	8	13	7	2	1	1	3	0	1	5	6

Figure 9

Certification Applications (Construction) Received (by Fiscal)

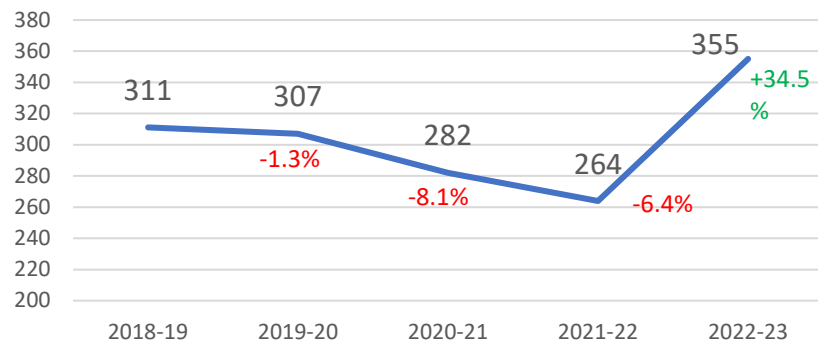


Figure 10

Industrial Certification Applications Received (by Fiscal)

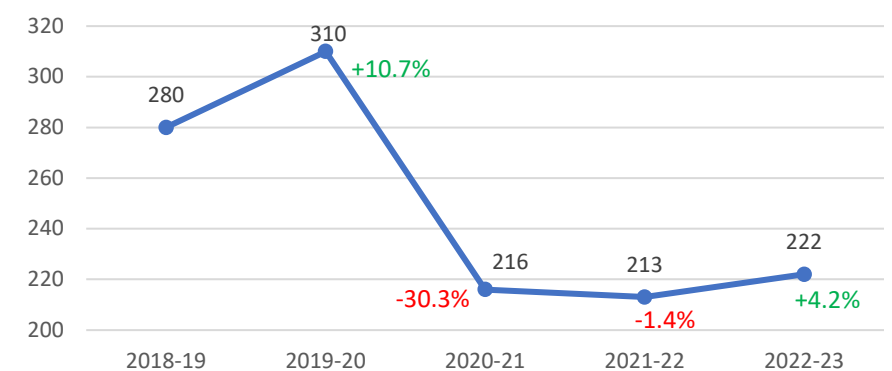


Figure 11

Certification and Termination of Bargaining Rights - Vote Activity

In 2022/2023, the Board held a total of 302 votes in applications for certification, displacement, and termination, up 34 from 2021/2022. All representation votes were held electronically as a result of the pandemic, with the exception of one displacement vote. Board mediators and Vote Officers are trained to staff the Help Desk required for electronic votes. There were 15,689 total ballots cast in these certification, displacement, and termination votes, of which 13,208 were cast electronically. Overall, the average voter turnout was 91.3% in the electronic files, which is slightly higher than the prior year.

Nearly 94% of all non-construction certification votes were held within seven days and 93.5% of non-construction- termination applications were held within seven days of application. (Figure 12)

Number of Days	Certification						Termination					
	Total		Industrial		Construction		Total		Industrial		Construction	
	Cases	% of	Cases	% of	Cases	% of	Cases	% of	Cases	% of	Cases	% of
	263		212		51		85		46		39	
< 5	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
5	116	44.1%	115	54.2%	1	2.0%	31	36.5%	28	60.9%	3	7.7%
6	79	74.1%	71	87.7%	8	17.6%	25	65.9%	12	87.0%	13	41.0%
7	28	84.8%	13	93.9%	15	47.1%	13	81.2%	3	93.5%	10	66.7%
8	27	95.1%	7	97.2%	20	86.3%	10	92.9%	1	95.7%	9	89.7%
9	2	95.8%	1	97.6%	1	88.2%	2	95.3%	0	95.7%	2	94.9%
10	0	95.8%	0	97.6%	0	88.2%	1	96.5%	0	95.7%	1	97.4%
11-15	3	97.0%	2	98.6%	1	90.2%	2	98.8%	1	97.8%	1	100.0%
16-20	1	97.3%	1	99.1%	0	90.2%	0	98.8%	0	97.8%	0	100.0%
21+	7	100.0%	2	100.0%	5	100.0%	1	100.0%	1	100.0%	0	100.0%

Under the Board's Rules of Procedure, construction certification applications may be delivered to the employer two days after the date of application. In those cases, where the application was filed under section 8 of the *Labour Relations Act*, the vote occurs five days after delivery to the employer and where the application was filed under section 128.1 of the *Labour Relations Act* a vote occurs after the Board conducts a hearing and determines the composition of the bargaining unit.

The cumulative number in non-construction certification and termination votes includes electronic votes, applications in which a second vote was later held on agreement of the parties or by order of the Board or where the Board directed submissions before the ordering of a vote.

Figure 12

Vote Analysis -Certification and Termination of Bargaining Rights Files Closed

Of cases disposed of during 2022/2023, the majority of certification applications were successful. Thirty-six applications for termination were granted and 48 were dismissed. (Figure 6)

In the certification and termination applications that were disposed of during 2022/2023, overall voter turnout was 85.2% in certification applications and 81.2% in termination applications. (Figure 13).

Of the 481 cases in which certificates were issued, 353 bargaining units were composed of 2 - 9 employees (311 of those were in the construction industry), and at the other extreme 4 were bargaining units of over 200 employees (only in the industrial setting) (Figure 14).

Case Type	Votes	Employees on Employer's List	Votes Cast	Voter Turnout (%)
Total Certification Votes	157	7,221	6,155	85.2%
Construction	7	58	53	91.4%
Industrial	150	7,163	6,102	85.2%
Total Termination Votes	35	799	649	81.2%
Construction	12	68	59	86.8%
Industrial	23	731	590	80.7%
Total Displacement Votes	34	6,863	5,098	74.3%
Construction	17	182	152	83.5%
Industrial	17	6,681	4,946	74.0%

Figure 13

Employees	Total		Construction		Industrial	
	Cases	Employees	Cases	Employees	Cases	Employees
Total:	481	6,365	360	1,512	121	4,853
2-9	353	1,006	311	806	42	200
10-19	56	607	38	348	18	259
20-39	32	917	8	216	24	701
40-99	27	1,575	3	142	24	1,433
100-199	9	1,093	-	-	9	1,093
200-499	4	1,167	-	-	4	1,167
500 +	-	-	-	-	-	-

Figure 14

Certification Applications- North American Industry Classification System

Of the non-construction certification applications, the majority related to the broader public sector, service and non-manufacturing industries (Figure 15).

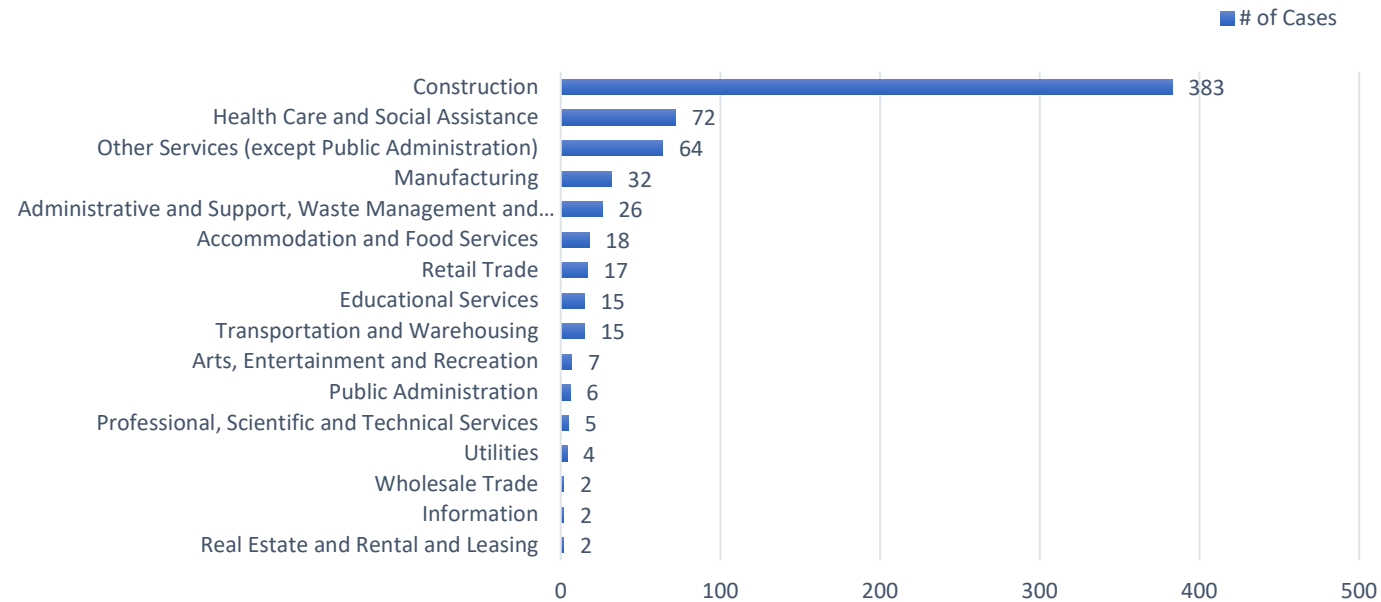


Figure 15

Contravention of the *Labour Relations Act*

Complaints alleging contravention of section 96 of the *Labour Relations Act*

In 2022/2023, the Board received 482 unfair labour practice complaints under the *LRA*, an increase of 11.6% from the previous year. In complaints against employers, the principal allegations can include illegal discharge of or discrimination against employees for union activity in violation of sections 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 allegations are often made in connection with applications for certification. Of 507 files closed on a final basis, 92.5% were resolved without a final hearing (Figure 8)

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 234, which is 12 more than the previous year. Of 243 individual duty of fair representation files closed, almost 94.7% were resolved without a final hearing and only 13 of duty of fair representation applications proceeded to a final consultation (Figure 8).

Declaration/Direction of Unlawful Strike/Lock-out

In 2022/2023, the Board received 8 applications seeking a declaration under section 100 regarding an alleged unlawful strike by employees and 1 application for a declaration under section 101 regarding an alleged unlawful lock-out by an employer.

	Total Received	Re-Opened	Pending April 1, 2022	Total Caseload	Total Closed	Granted / Partially	Dismissed	Terminated	Settled, Withdrawn, Abandoned	Not Processed	Pending	Sine Die	Pending March 31, 2023	Total Pending + Sine Die
Unfair Labour Practices	482	16	287	785	507	19	136	19	324	0	9	26	252	278
Duty of Fair Referral	2	0	3	5	2	0	2	0	0	0	0	0	3	3
Duty of Fair Representation	232	4	102	338	243	1	109	14	119	0	0	12	83	95
Failure to Comply with Settlement	18	0	10	28	20	0	3	0	17	0	0	0	8	8
Unfair Labour Practice	204	10	166	380	217	16	19	4	170	0	8	11	152	163
Unfair Labour Practice (Bad Faith)	17	0	3	20	12	1	1	0	9	0	1	2	6	8
Unlawful Lockout	1	0	2	3	3	0	0	0	3	0	0	0	0	0
Unlawful Strike	8	2	1	11	10	1	2	1	6	0	0	1	0	1

Figure 16

Unfair Labour Practice applications filed (by Fiscal)

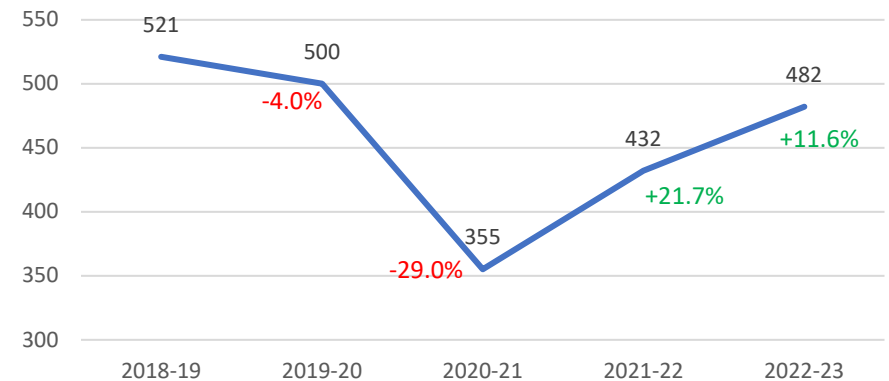


Figure 17

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 *LRA*. The principal issues in these grievances are 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.

A filing fee of \$250.00 must accompany a grievance referral or a Notice of Intent to Defend. In order to participate in a Case Management Hearing or a hearing, each party must pay a hearing fee for each day (or part of a day).

In 2022/2023, the Board received 607 cases under this section (Figure 6), which is an almost 25% increase over the previous year. (Figure 18). Of the 558 grievance referrals closed, 92.5% were resolved without a final hearing. (Figure 8).

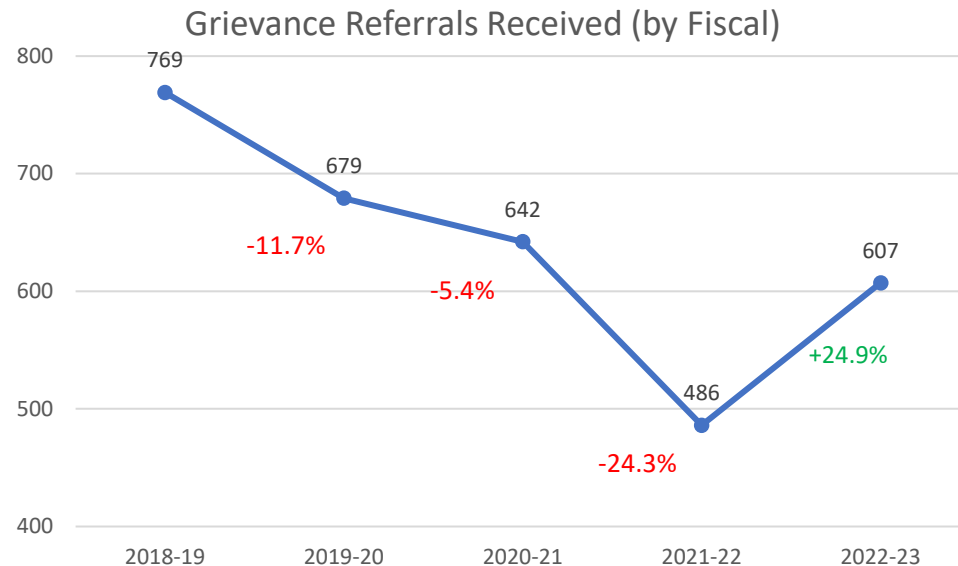


Figure 18

Sale of Business/Related Employer

The Board received 115 applications alleging that two or more businesses were related and therefore should be treated as one employer under section 1(4) of the *Labour Relations Act* or that there had been a sale of a business or part of a business which has affected the representation rights of the employees (section 69 of the *Labour Relations Act*). This number is the same as the number received in 2020/2021 and an increase 23.7% from 2021/2022. (Figure 19)

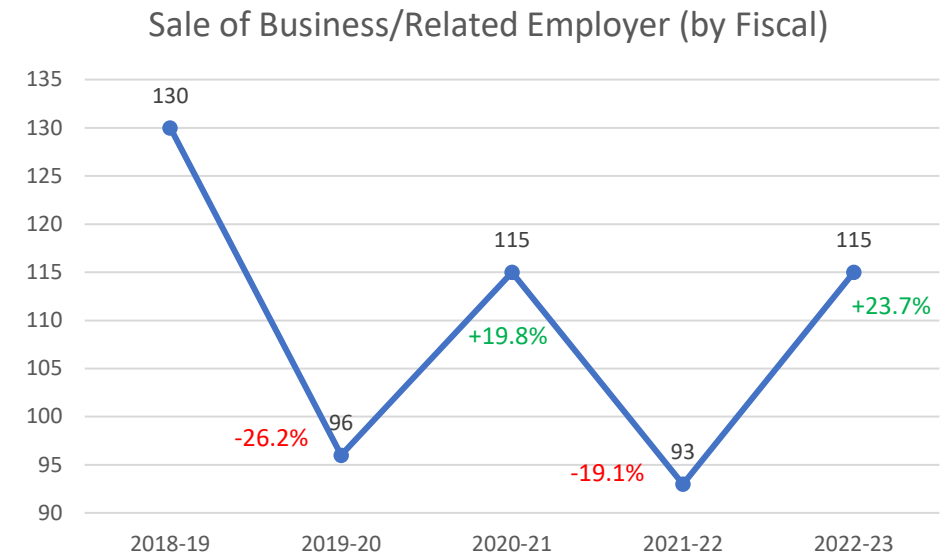


Figure 19

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 received 541 cases in 2022/2023 which is an increase of 18.1% from 2021/2022. Of the 536 cases closed, 89.7% were resolved without a hearing and 55 cases went to a final hearing (Figures 6 and 8). Of the appeals received, 58% were filed by the employer. (Figure 21)

	Total Received	Re-Opened	Pending April 1, 2022	Total Caseload	Total Closed	Granted / Partially Dismissed	Dismissed	Terminated	Settled, Withdrawn, Abandoned	Advice Provided	Not Processed	Sine Die	Pending March 31, 2023	Total Pending + Sine Die
Employment Standards	541	10	223	774	536	28	48	55	392	5	8	4	234	238
Appeal (Director)	26	0	13	39	23	1	4	2	12	0	4	0	16	16
Appeal (Employee)	200	5	88	293	192	9	19	13	147	4	0	4	97	101
Appeal (Employer)	315	5	120	440	320	17	25	40	233	1	4	0	120	120
Referral under Employment Standards Act	0	0	2	2	1	1	0	0	0	0	0	0	1	1

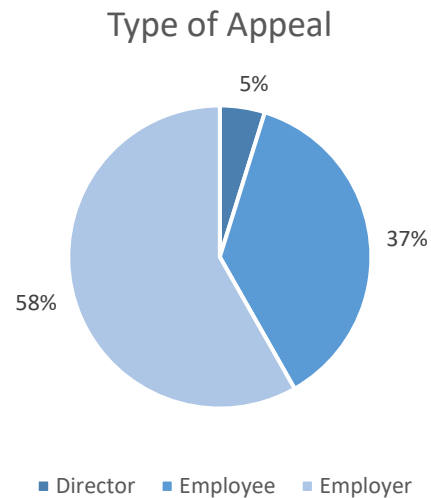


Figure 21

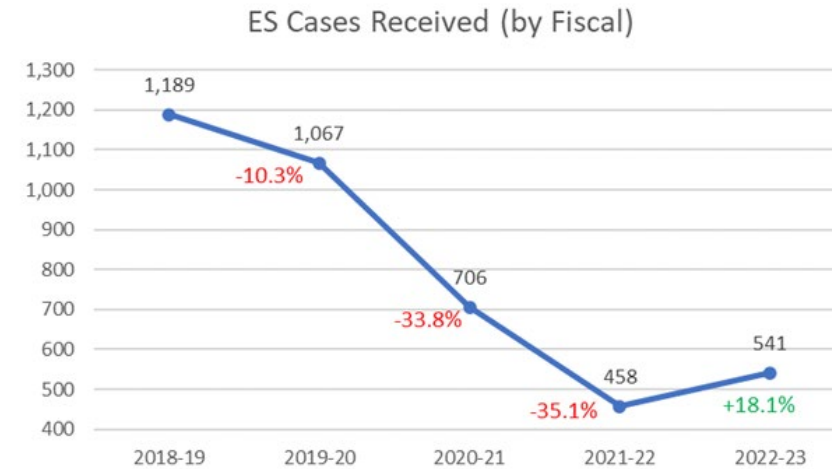


Figure 22

Occupational Health and Safety Act

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 *OHS Act* are investigated by health and safety inspectors from the Ministry of Labour, Immigration, Training and Skills Development; orders or decisions of inspectors are the subject of appeals to the Ontario Labour Relations Board. There were 43 appeals filed in 2022/2023 (including suspension requests). Of 69 individual files closed, 94.2% were resolved prior to a final hearing (Figure 8).

	Total Received	Re-Opened	Pending April 1, 2022	Total Caseload	Total Closed	Granted / Partially	Dismissed	Terminated	Settled, Withdrawn, Abandoned	Sine Die	Pending March 31, 2023	Total Pending + Sine Die
Health & Safety Appeals	43	4	77	124	68	0	9	3	56	21	34	55
Appeal of Inspector's Order	37	3	72	112	59	0	7	2	50	20	32	52
Suspension of Order	6	1	5	12	9	0	2	1	6	1	2	3

Figure 23

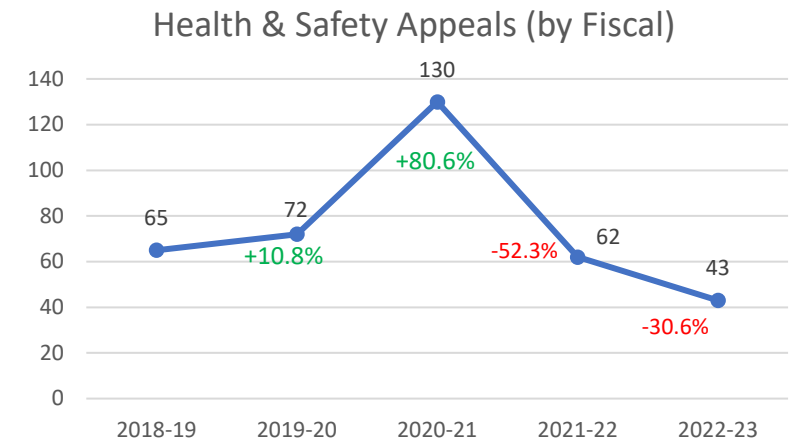


Figure 24

Unlawful Reprisals

In 2022/2023, the Board received 214 complaints under Section 50 of the *Occupational Health and Safety Act* alleging wrongful discipline or discharge for acting in compliance with the Act. Nine of the applications filed in 2022/2023 were referred by health and safety inspectors (Figure 25). Of the total 215 individual unlawful reprisal cases closed, 204 cases (94.9%) were resolved without a final hearing. (Figure 8).

	Total Received	Re-Opened	Pending April 1, 2022	Total Caseload	Total Closed	Granted / Partially Dismissed	Terminated	Settled, Withdrawn, Abandoned	Advice Provided	Pending	Sine Die	Pending March 31, 2023	Total Pending + Sine Die	
Unlawful Reprisals	217	6	71	294	215	3	30	16	166	0	0	9	69	78
Health and Safety - Inspector Referral	9	0	1	10	9	0	0	0	9	0	0	0	1	1
Health and Safety Reprisal	205	6	68	278	201	3	27	14	157	0	0	9	68	77
Reprisal - Long Term-Care Homes Act	0	0	1	1	1	0	1	0	0	0	0	0	0	0
Reprisal - Public Service of Ontario Act	1	0	1	2	2	0	1	1	0	0	0	0	0	0
Reprisal - Environmental Bill of Rights Act	1	0	0	1	1	0	0	1	0	0	0	0	0	0
Reprisal - Environmental Protection Act	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Reprisal - Public Inquiries Act	1	0	0	1	1	0	1	0	0	0	0	0	0	0

Figure 25

Health and Safety Reprisals Received (by Fiscal)

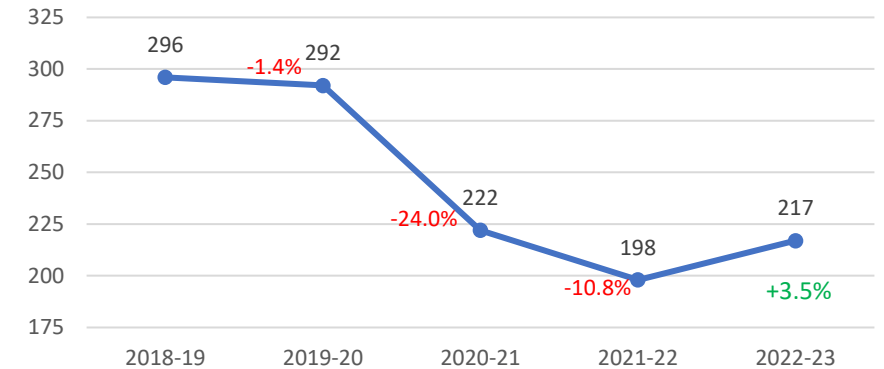


Figure 26

Other Applications

Applications for Interim Order

Where a proceeding is pending, the Board, on application under the *Labour Relations Act* and the *Occupational Health and Safety Act*, may make interim orders. In 2022/2023 the Board received 31 applications for interim orders, and two were pending from the previous year. This was a significant increase from 2021/2022, in which there were 19 filed. (Figures 6 and 7)

Jurisdictional Disputes

There were 49 applications before the Board under section 99 of the Act involving union work jurisdiction. (Figure 6)

Essential Services

No applications were received under the *Crown Employees Collective Bargaining Act*.

Two cases were received under the *Ambulance Services Collective Bargaining Act*.

Colleges Collective Bargaining Act, 2008

The *Colleges Collective Bargaining Act, 2008* (“CCBA”) extended collective bargaining to part-time and sessional employees of Colleges of Applied Arts and Technology. The CCBA addresses certifications and terminations of bargaining rights, unfair labour practice complaints and provides for collective negotiation, conciliation and mediation processes that are similar to those set out in the *LRA*.

The Board received no applications for certification under the CCBA in 2022/2023. One is pending as of March 31, 2023.

Pursuant to the CCBA, votes to ratify a proposed collective agreement or memorandum of settlement (section 16) and strike votes (section 17(1)) are to be conducted under the supervision of the Board.

In 2022/2023, the Board supervised one ratification vote under the CCBA and there were no unfair labour practice complaints filed.

Case Type	Votes	Employees on Employer's List	Votes Cast	Voter Turnout (%)	In Favour of Final Offer (%)	Against Final Offer (%)
Ratification	1	9,916	6,063	61.1%	62.2%	37.8%

Figure 27

School Boards Collective Bargaining Act

The *School Boards Collective Bargaining Act* (“SBCBA”) sets out the structure for collective bargaining in the education sector. 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 the central/local split, disputes are decided by the Board upon the application of either party or the Crown, as well as any issue arising from the parties’ agreement or Board order.

The Board received two applications under SBCBA in 2022/2023.

Other Applications

Last Offer Votes

Under section 42(1) of the *Labour Relations Act*, the Minister of Labour, Immigration, Training and Skills Development has the authority to direct a vote among employees on an employer's last offer for settlement of a collective agreement. Where such direction is made, the Minister requests the Board to conduct the vote. Although the Board is not responsible for the administration of votes under that section, the Board's Mediators and Vote Officers are assigned by the Registrar to conduct these votes because of their expertise and experience in conducting representation votes under the Act.

The Board received eight requests during the fiscal year, two of which were withdrawn without a vote being held. Five of the votes held were conducted electronically and one was conducted in-person. Over the six votes, there was an 75.6% voter turnout. Average voter turnout among the five electronically-conducted votes was 85.4%, notably higher than the 74% turnout for the sole in-person vote.

The employees voted to reject the collective agreement in four cases, and voted in favour of the collective agreement in two cases.

Case Type	Votes	Employees on Employer's List	Votes Cast	Voter Turnout (%)	In Favour of Final Offer (%)	Against Final Offer (%)
Total Last Offer Votes	6	3,688	2,789	75.6%	21.4%	53.3%

Figure 28

Declaration of Successor Trade Union

One application for declaration of successor trade union was received in 2022/2023.

Early Termination of Collective Agreement

Twelve applications were received under section 58(3) of the *Labour Relations Act*, seeking early termination of collective agreements in 2022/2023. These are joint applications by employers and trade unions and are made on consent.

Referral on Employee Status

The Board received three applications under section 114(2) of the Act, seeking a decision on the status of individuals as employees under the Act.

Referrals by Minister of Labour, Immigration, Training and Skills Development

In 2022/2023, the Board received one new case 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 *LRA*. The Board received no ministerial reference 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*.

First Agreement Arbitration

In 2022/2023, the Board received 13 applications for directions to settle first agreements by arbitration. (Figure 6)

Applications under the *Public Sector Labour Relations Transition Act*

In 2022/2023, the Board had nine applications under the *Public Sector Labour Relations Transition Act, 1997* before it, including 5 new applications. There was 1 vote held under *PSLRTA* in 2022/2023 with an 82.3% voter turnout.

Case Type	Votes	Employees on Employer's List	Votes Cast	Voter Turnout (%)
PSLRTA Votes	1	598	492	82.3%

Figure 29

Time Required to Dispose of Applications, by Major Case Type

Time Taken (Calendar Days)	All Cases		Certification		Contravention		Health & Safety		Employment Standards		Construction Industry Grievances		Sale of Business		Termination		All Other Cases	
	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	Cumulative % Dispositions	Cumulative % Dispositions	
Total	2791		559		511		274		511		603		112		120		101	
0-7	153	5.5	33	5.9	15	2.9	1	0.4	4	0.8	46	7.6	3	2.7	40	33.3	11	10.9
8-14	222	13.4	91	22.2	13	5.5	4	1.8	0	0.8	94	23.2	1	3.6	6	38.3	13	23.8
15-21	197	20.5	101	40.3	24	10.2	7	4.4	6	2.0	31	28.4	4	7.1	10	46.7	14	37.6
22-28	124	24.9	39	47.2	19	13.9	16	10.2	7	3.3	27	32.8	4	10.7	6	51.7	6	43.6
29-35	126	29.5	43	54.9	14	16.6	15	15.7	20	7.2	18	35.8	1	11.6	9	59.2	6	49.5
36-42	110	33.4	18	58.1	19	20.4	24	24.5	22	11.5	20	39.1	2	13.4	2	60.8	3	52.5
43-49	105	37.2	8	59.6	21	24.5	26	33.9	21	15.7	15	41.6	2	15.2	10	69.2	2	54.5
50-56	94	40.5	13	61.9	15	27.4	15	39.4	25	20.5	13	43.8	3	17.9	5	73.3	5	59.4
57-63	64	42.8	9	63.5	21	31.5	13	44.2	4	21.3	12	45.8	1	18.8	3	75.8	1	60.4
64-70	68	45.3	9	65.1	14	34.2	5	46.0	27	26.6	6	46.8	1	19.6	3	78.3	3	63.4
71-77	72	47.8	2	65.5	7	35.6	15	51.5	35	33.5	7	47.9	2	21.4	0	78.3	4	67.3
78-84	63	50.1	4	66.2	30	41.5	6	53.6	12	35.8	7	49.1	1	22.3	3	80.8	0	67.3
85-91	63	52.3	5	67.1	17	44.8	4	55.1	25	40.7	8	50.4	1	23.2	2	82.5	1	68.3
92-98	49	54.1	5	68.0	13	47.4	4	56.6	13	43.2	7	51.6	2	25.0	1	83.3	4	72.3
99-105	38	55.5	7	69.2	12	49.7	4	58.0	11	45.4	3	52.1	0	25.0	0	83.3	1	73.3
106-126	100	59.0	13	71.6	17	53.0	10	61.7	35	52.3	16	54.7	5	29.5	2	85.0	2	75.2
127-147	91	62.3	12	73.7	23	57.5	4	63.1	26	57.3	17	57.5	7	35.7	2	86.7	0	75.2
148-168	85	65.4	7	75.0	22	61.8	11	67.2	29	63.0	7	58.7	3	38.4	2	88.3	4	79.2
169-183	48	67.1	6	76.0	16	65.0	2	67.9	16	66.1	7	59.9	1	39.3	0	88.3	0	79.2
183+	919	100.0	134	100.0	179	100.0	88	100.0	173	100.0	242	100.0	68	100.0	14	100.0	21	100.0

Figure 30

Percentage of Cases Closed Within 3, 6 and 9 Months of Application Date

Sale of Business / Related Employer

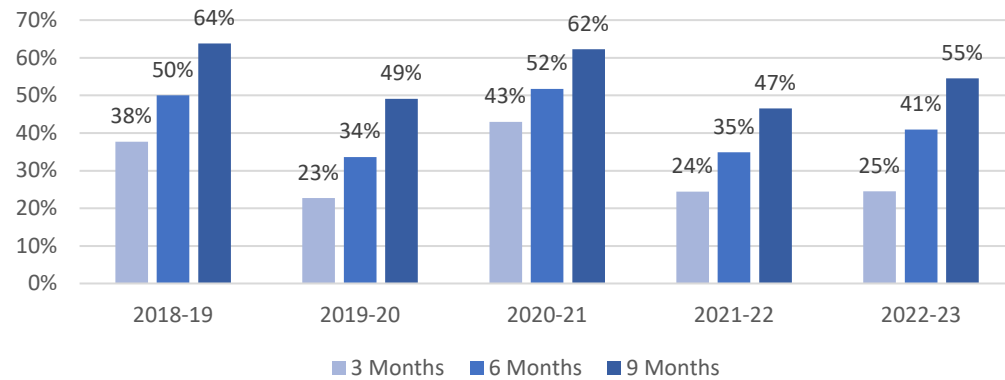


Figure 31

Employment Standards (Appeals)

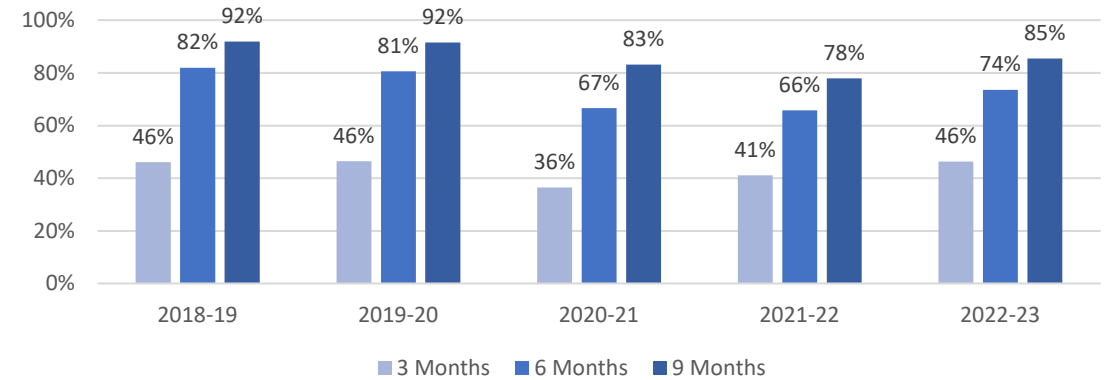


Figure 32

Percentage of Cases Closed Within 3, 6 and 9 Months of Application Date

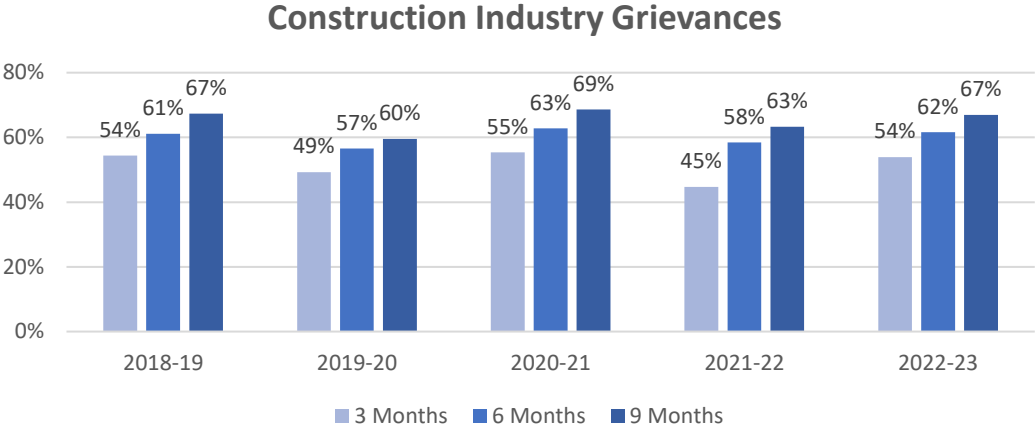


Figure 33

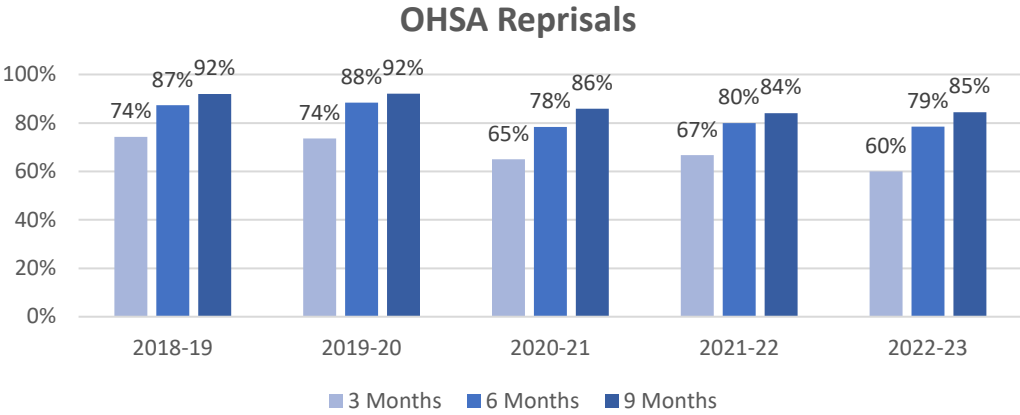


Figure 34

Percentage of Cases Closed Within 3, 6 and 9 Months of Application Date

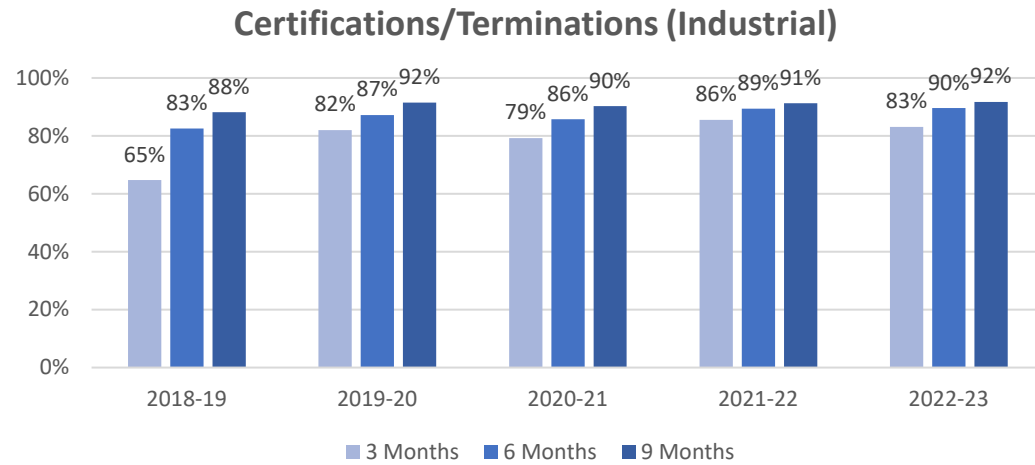


Figure 35

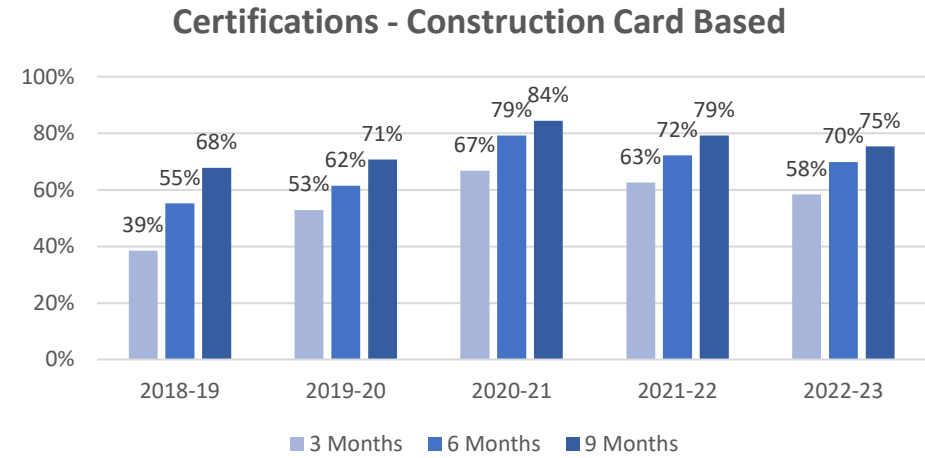


Figure 36

*Based on 289 applications

Percentage of Cases Closed Within 3, 6 and 9 Months of Application Date

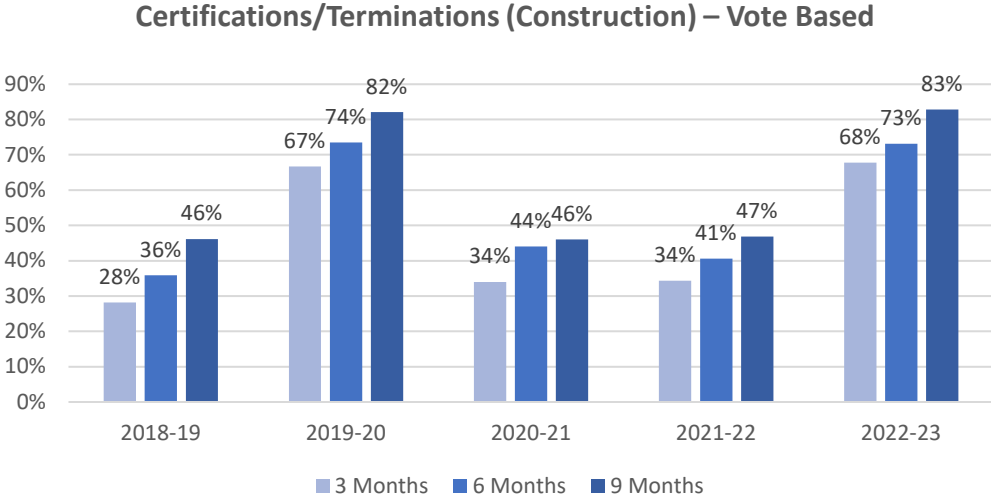


Figure 37

* Based on 93 applications. Because the applications for certification in the construction industry are predominantly card-based, there are far fewer vote-based applications for certification. These are often filed with an unfair labour practice complaint which needs to be adjudicated before these files can be closed.

Activities with Stakeholder Groups

Advisory Committee: The Ontario Labour Relations Board has established an Advisory Committee whose mandate is to function as a consultative group for the Board. The Committee is composed of members of the labour and management side bar, Director of Legal Services (MLITSD), representatives from the Ontario Bar Association Labour & Employment Law Section and the OLRB Chair, Alternate Chair, Director/Registrar and Solicitors and acts as a resource to the Board for consultation/feedback. The Committee meets at least three times per year, and more often if necessary. Committee membership and minutes of meetings are posted on the Board's website. In 2022/2023, the Committee continued to meet by videoconference.

Internship Programs: Collaborative external partnership programs with client labour law firms and postsecondary institutions continue. The program provides opportunities for students currently articling and recent graduates and/or current students of MIR and Labour Studies programs to put their academic training to practical use with a hands-on professional learning experience at the OLRB.

Outreach: Regular community outreach by the Chair, Alternate Chair, Director/Registrar and Deputy Registrar at consultations held with client and stakeholder groups and Town Hall and community meetings where advisable.

These individuals are invited to and routinely speak at professional and stakeholder conferences, conventions, seminars, continuing education programs and meetings. Upcoming events may include:

- Representation at Labour Board conferences
- Conference of Labour Board Chairs and Senior Administrators
- Association of Labor Relations Agencies (ALRA)
- Council of Canadian Administrative Tribunals (CCAT)
- Canadian Institute of Administrative Justice (CIAJ)
- Society of Ontario Adjudicators and Regulators
- Ontario Bar Association
- Law Society of Ontario

The OLRB provides services in both official languages, including the publication of forms, information bulletins, website messages etc., and strives to ensure the accessibility of our websites and the conduct of hearings. The ability of our clients and stakeholders to readily communicate with the Board in an accessible manner in either French or English –from reception through to adjudication continues to be a priority.

Key decisions April 1, 2022 – March 31, 2023

Unfair Labour Practice – COVID-19 - Interference with union – Intimidation and coercion Union filed unfair labour practice alleging violations of s. 70 and 76 of the *Labour Relations Act* (the “Act”) - Employer implemented policy of excluding visitors from long-term care and retirement homes due to COVID-19, including union representatives, pursuant to Directive #3 issued by the Ontario Chief Medical Officer of Health – Clause in collective agreement permitted reasonable access for the purpose of meetings with members or servicing - Policy varied over time regarding whether, or how many, visitors were permitted to residents but consistently provided that union representatives were not permitted access except that they were permitted access at one point to conduct in-person ratification meetings - Union argued that there was no basis for denying access to the Union when residents were permitted visits from visitors, entertainers were on the properties, and residents were also leaving the facilities for outings – Employer argued that residents’ health and safety was primary concern and that the Union never had unfettered access to its properties – Board noted that Directive #3 by the time of the dispute between the Union and the Employer permitted “general visitors” to access the properties and the Employer had allowed union representatives to attend for the purpose of a ratification vote – Blanket refusal to consider access to properties for union representatives for other purposes, while allowing access for ratification votes, indicated that Employer had some other motivation for denying access – No explanation was provided – Employer interfered with Union administration and representation contrary to *Act* – Access via videoconference not an acceptable substitute – On-site presence of union representatives critical to effective representation – Precautionary principle also did not justify blanket exclusion in view of activities on and off property that were permitted by the Employer – No intimidation or coercion found – Application granted.

SERVICE EMPLOYEES INTERNATIONAL UNION, LOCAL 1 CANADA, RE CHARTWELL RETIREMENT RESIDENCE (VARIOUS LOCATIONS); OLRB Case No: 1237-21-U; April 13, 2022 (2022 CanLII 31736)

Occupational Health And Safety – COVID-19 - Appeal of Inspector’s refusal to make an order – Employee asserted that Employer’s mandatory COVID-19 vaccination policy contravened s. 63(2) of the *Occupational Health and Safety Act* (the “Act”) by requiring workers to disclose their vaccination status without their consent – Inspector declined to make order, and appeal ensued – Policy required employees to be vaccinated against COVID-19 by a certain date and required disclosure of their vaccination status to the employer – Vaccination policy contained exemptions for human rights accommodation – Section 63(2) of the Act prohibited employers from accessing health records except by order of a court or tribunal, or to comply with another statute – Regulation under *Reopening Ontario (A Flexible Response to COVID-19) Act* required employer to operate in accordance with advice received from Chief or local Medical Officers of Health – Local Medical Officer of Health had issued recommendations applicable to employer which included recommendation that vaccination policies include requirement that employees to show proof of vaccination status – Compliance with recommendations was voluntary – Board noted that scope of appeal did not include assessing vaccination policy or its consequences, but strictly related to the interpretation and application of s. 63(2) of the Act – No violation as employer did not seek to gain access to employee’s health record without her consent – Board also concluded that access was authorized by statute – Statute did not prohibit employer asking for vaccination status but instead prohibited employer from seeking to gain access through other means without employee’s consent – Appeal dismissed.

HEATHER WONG, RE TORONTO PUBLIC LIBRARY, RE A DIRECTOR UNDER THE *OCCUPATIONAL HEALTH AND SAFETY ACT*, RE CANADIAN UNION OF PUBLIC EMPLOYEES; OLRB Case No: 1535-21-HS; Dated April 21, 2022 (2022 CanLII 34027)

Key decisions April 1, 2022 – March 31, 2023 (continued)

Unfair Labour Practice – Bad Faith Bargaining – Education Sector – ETFO asserted that Crown and OPSBA failed to disclose in bargaining an intention to revoke O. Reg. 274/12 (“Reg 274”), related to hiring practices, and that this constituted bad faith bargaining - Reg 274 set out a seniority and qualifications-based mechanism for the hiring of long-term occasional (“LTO”) and permanent teachers – Letter of Agreement (“LOA”) forming part of collective agreement provided that hiring of LTOs and permanent teachers would be carried out in accordance with Reg 274, and was only reference to Reg 274 in the collective agreement – Crown and OPSBA proposed deletion of LOA – Lead Union negotiator asked if Crown intended to revoke Reg 274, to which response was “not at this time” – ETFO proposed incorporating the language of Reg 274 directly into the collective agreement – Crown later proposed amendments to Reg 274 in the course of bargaining, which were unacceptable to ETFO – Negotiations ultimately resulted in ETFO withdrawing its proposals and parties agreeing to delete the LOA from the collective agreement – Crown then proposed side letter that explicitly confirmed that the parties could not reach agreement on Reg 274 but that this did not diminish the Crown’s right to amend or revoke Reg 274 – Multiple drafts of side letter ensued – Parties eventually agreed to a letter indicating that the Crown retained regulatory authority and that Reg 274 was not included in the “status quo items” in the memorandum of settlement for a collective agreement – Memorandum did not include any reference to Reg 274 – Several months later, after ratification of central terms, Reg 274 revoked – ETFO argued that Crown’s conduct led it to believe that while Reg 274 might be amended, it would not be revoked, violating s. 32 of the *School Boards Collective Bargaining Act* (the “Act”) which imposed a duty to bargain in good faith on the Crown – Crown argued that content of its proposals and the conclusion of central bargaining made it clear that there was no guarantee of Reg 274’s survival – OPSBA argued that Crown and OPSBA had made clear their objective to have the seniority-based regime in Reg 274 give way to considerations of diversity and qualifications as well as teacher mobility – Side letter intended to make Crown and OPSBA’s position clear and ETFO did not seek to return to the bargaining table in the face of the side letter – Board concluded that ETFO’s proposals to enshrine the provisions of Reg 274 into the terms of the collective agreement indicated awareness that Reg 274 could be at risk – Nothing the Crown or OPSBA did in bargaining provided assurance to ETFO that the Crown would not

exercise its regulatory authority, or that such authority was limited to amendments and not revocation – No evidence that Crown had formed the intention to revoke Reg 274 at the time of central bargaining – No violation of duty to bargain in good faith – Board also found that neither s. 70 nor s. 86 of the *Labour Relations Act* were violated – Application dismissed.

ELEMENTARY TEACHERS’ FEDERATION OF ONTARIO, RE **THE CROWN IN RIGHT OF ONTARIO AS REPRESENTED BY THE MINISTRY OF EDUCATION**, RE THE ONTARIO PUBLIC SCHOOL BOARDS' ASSOCIATION; OLRB Case No: 1760-20-U; Dated April 25, 2022 (2022 CanLII 35068)

Constitutional Law – Federal or provincial jurisdiction – Employment Standards – Appeal from Orders to Pay issued under the *Employment Standards Act* - Employer, a First Nation Band Council, took the position that it was federally regulated and therefore not subject to provincial employment standards regime – Employees in question worked at the Healing Lodge, an emergency shelter located on the Oneida Settlement – Healing Lodge operated by and under the supervision of the Band Council – Employer argued that the Healing Lodge was part of the services provided by the Band Council to its members and therefore federally regulated – Director of Employment Standards took the position that presumptively, employment standards was provincially regulated – Function of providing emergency shelter services fell under provincial regulation – Board reviewed constitutional jurisprudence and applied “functional” test – Governance structure of Healing Lodge meant that its activities could not be separated from the activities of the Band Council itself, so “functional” test was to be applied to the Band Council – Operation of the Healing Lodge was part of the normal and habitual activities of the Band Council – Presumption of provincial jurisdiction rebutted – Orders to Pay rescinded.

ONEIDA NATION OF THE THAMES, RE JESSICA DURKEE, RE TRACY GREEN, RE DIRECTOR OF EMPLOYMENT STANDARDS; OLRB Case No: 1043-21-ES and 1047-21-ES; Dated April 27, 2022 (2022 CanLII 35893)

Key decisions April 1, 2022 – March 31, 2023 (continued)

Sale of a business – Public Sector - ATU asserted that TTC had transferred part of an undertaking to the Crown and its agents, within the meaning of s. 69 of the *Labour Relations Act, 1995* (the “Act”) and s. 10(2) of the *Crown Employees Collective Bargaining Act, 1993*, namely the provision of public transit service east and west along the Eglinton Corridor in Toronto – Responding parties brought motions to dismiss application on a preliminary basis – Board considered no prima facie case motion – TTC proposed that a light rail network be created along several corridors including Eglinton – TTC did not have the funding to implement the plan, which would require provincial and federal funding, but did do preliminary assessment and design work – 2012 Master Agreement between TTC, City of Toronto and Metrolinx (a Crown agency) provided that Metrolinx was responsible for delivering, among other things, the Eglinton Crosstown LRT – Agreement also provided that TTC would operate the LRTs, but that Bombardier would be responsible for the maintenance work (which historically had been performed by TTC workers) – ATU asserted that TTC had transferred its transit service along the Eglinton Corridor to Metrolinx, by way of a series of actions starting with the Master Agreement and ending with the imminent cessation of TTC bus service along Eglinton – ATU asserted that transit service was a discrete and cohesive portion of the TTC’s overall business activities – Board concluded that no economic vehicle or going concern had been transferred from the TTC to Metrolinx – Metrolinx may have benefited from TTC’s initial planning but that benefit did not constitute a business or part thereof – Metrolinx had independently overseen the creation of a transit system – Nothing in Metrolinx’s hands could be traced back to the TTC except possibly the work itself of providing transit service, to which bargaining rights do not attach – No business or part thereof was acquired by the responding parties from the TTC – Application dismissed

AMALGAMATED TRANSIT UNION, LOCAL 113, RE **THE TORONTO TRANSIT COMMISSION AND THE CROWN IN THE RIGHT OF ONTARIO (METROLINX)**

AND **CROSSLINX TRANSIT SOLUTIONS GENERAL PARTNERSHIP AND BOMBARDIER TRANSPORTATION CANADA INC.**; OLRB Case No: 1921-20-R; Dated June 22, 2022 (2022 CanLII 58315)

Related Employer – Stay of Proceedings – Bankruptcy - Several proceedings before the Board seeking a determination of whether responding parties RR, TPH, TMI and a numbered company constituted a single employer for the purpose of the *Employment Standards Act, 2000* and the *Labour Relations Act, 1995* – RR bound to collective agreement with applicant Union – After RR closed down its operations, Union proceeded with grievance for termination and severance pay – After decision of arbitrator awarding termination and severance pay, RR made assignment in bankruptcy under the *Bankruptcy and Insolvency Act* (“BIA”) – Responding parties took the position that the proceedings before the Board were stayed by s. 69.3 of the BIA, which prohibits the commencement or continuation of proceedings for the recovery of a “claim provable in bankruptcy” – The Board reviewed the extensive jurisprudence on this issue – Board’s evolving approach to BIA reflects a view that solvent entities ought not to be permitted to use the BIA stay provisions to fend off claims by alleged employees – Permitting the various applicants to attempt to obtain monetary remedies against RR would be inconsistent with the purposes of the stay, but permitting such recovery as against the alleged related employers would not – Matters not stayed by BIA stay – Matters to continue.

UNITED FOOD AND COMMERCIAL WORKERS CANADA, LOCAL 1006A, RE RYDING REGENCY MEAT PACKERS LTD., RE TRI-PET HOLDINGS INCORPORATED, TRUHARVEST MEATS INC., and 2805463 ONTARIO LTD; OLRB Case Nos: 0429-21-R, 0625-21-ES, 0675-21-ES, 0677-21-ES and 0676-21-ES; Dated June 23, 2022 (2022 CanLII 60743)

Key decisions April 1, 2022 – March 31, 2023 (continued)

Ministerial Reference – Successor Employer – Interpretation of s 69.1 of the *Labour Relations Act, 1995* – Whether “services to premises” includes shuttle bus operations – Respondent Employers operated shuttle buses for University Health Network (“UHN”) – Mulmer took over routes replacing Standard Parking - Board reviewed principles of statutory interpretation – Legislation to be given large and liberal interpretation – Legislative interpretations ought not to produce absurd outcomes – Adjudicative expertise of Board informs how it should interpret home statutes – Words in statute coloured by statutory context – Statutes dealing with same subject matter ought to be consistent, coherent, harmonious – Same applies to a lesser extent to coherency and consistency with other Acts generally – To be covered by s. 69.1, services must both be provided directly or indirectly by or to a building owner or manager, and they must be related to servicing the premises – Harmonious interpretation of *Labour Relations Act* and *Employment Standards Act* does not require adopting *ESA* definition to determine scope of *LRA* provision – Shuttle buses were “servicing premises” - Service provided at UHN premises – Drivers identify UHN as where they work – Service provided was substantially similar to previous provider – Application granted

LABOURERS’ INTERNATIONAL UNION OF NORTH AMERICA, LOCAL 183, UNION RE: **MULMER SERVICES LTD., AND SP PLUS CORPORATION CANADA/STANDARD PARKING OF CANADA LTD.**, EMPLOYERS; OLRB Case No: 2852-20-MR; Dated August 5, 2022 (2022 CanLII 81905)

First contract arbitration – Parties unable to reach agreement – Union and Employer parties to multiple collective agreements covering many bargaining units – All other collective agreements in Ontario had been negotiated except the instant collective agreement – Bargaining unit employees had some conditions pre-unionization better than comparable

unionized positions, and some inferior conditions – Employer raised wage floor of another group of non-unionized employees shortly after this group decided to unionize – Employer gave no financial, economic, or operational basis for its decision – Onus is on applicant Union to convince Board that positions are uncompromising and without reasonable justification, or any other reason showing that remedial action is necessitated – Board reviewing jurisprudence and principles – First contract negotiations are highly contextual endeavours with few absolute certainties or principles – First contract arbitration not to be used to achieve major breakthroughs – Terms should be sufficiently attractive to employees in that they would give serious consideration before deciding to terminate bargaining rights – First contract arbitration should not reward either party for failing to achieve negotiated agreement, should not impede prospect of future labour relations, and should make collective bargaining attractive to both parties – Whether maintaining status quo in respect of a particular provision is appropriate depends on particular case – Presence of long-standing bargaining relationship typically means newly unionized employees will not immediately achieve parity in all respects, but is again entirely dependent on the context – Here, that newly-unionized group of employees had superior entitlements in some respects to other unionized counterparts – Many positions held by Employer were contradictory or lacking sufficient justification – Employer simultaneously maintained that previous entitlements were to be lost by newly-unionized Employees as these were non-union entitlements, and employees were not entitled to most unionized-employee benefits as they were only newly organized – Positions held by employer were altogether destructive of negotiating first collective agreement – Employer found to be unreasonably uncompromising – Application granted

UNIFOR AND UNIFOR, LOCAL 999, RE: **ENBRIDGE GAS INC.**; OLRB Case No: 0539-22-FA; Dated August 19, 2022 (2022 CanLII 79116)

Key decisions April 1, 2022 – March 31, 2023 (continued)

Employment Standards – Termination Pay – Employment Standards Officer had determined employee was not entitled to termination pay pursuant to the *Employment Standards Act* (the “*Act*”) as employment ended due to death of employee – Employee contracted influenza B, which unexpectedly proved fatal - Dispute over degree of knowledge of Employer as to employee’s medical condition – Employer had taken no steps to terminate employee’s employment – Illness or injury making employment impossible or frustrated still requiring termination pay – Parties disagreed over whether applicable provision requires employer intention or action – Result depends upon interpretation of sections 57 and 61 of the *Act* and sections 2(1)4 and 2(3) of O. Reg. 288/01 pursuant to the *Act* – Principles of statutory interpretation reviewed – *Act* remedial in purpose and conferring benefits and therefore favours a broad and generous interpretation – However, *Act* must be read in a way that promotes internal harmony, coherency, and consistency, and is informed by surrounding context – Proper interpretation of relevant statutory provisions requires some action by Employer, and there was none in this case – Application dismissed.

ANTONIA BECERRIL JIMENEZ, RE: **PICCIONI BROS. MUSHROOM FARM LIMITED**, AND DIRECTOR OF EMPLOYMENT STANDARDS; OLRB Case No: 2656-20-ES; Dated: September 16, 2022; (2022 CanLII 87880)

School Boards – Collective Bargaining – Union brought application under subsection 28(4) of the *School Boards Collective Bargaining Act, 2014* (the “SBCBA”) asking Board to decide whether “hiring practices” was a matter for central or local bargaining – “Hiring practices” refers to the manner in which teachers and occasional teachers are hired by local school boards – Union argued hiring practices should be subject of local bargaining – OPSBA and Crown argued they should be subject of central bargaining – Board required to

interpret and apply the relevant provisions of the SBCBA – Board directed by subsection 28(8) of the SBCBA to consider four factors in determining whether hiring practices should fall within the scope of central bargaining: 1) impact on the implementation of provincial education policy; 2) impact on expenditures; 3) whether the matter raises common issues between the parties to the collective agreements that can more appropriately be addressed in central bargaining than in local bargaining; 4) such other factors the Board considers relevant – Parties agreed factor 2 irrelevant – Board analyzed factors 1, 3, and 4 - Negotiation of hiring practices could have a significant impact on the implementation of Policy/Program Memorandum 165 issued by the Ministry of Education – History and context of past negotiations over hiring practices is an “other factor” supporting a finding that hiring practices should fall within central bargaining - Factors 1 and 4 favoured a finding that hiring practices fall within the scope of central bargaining - Factor 3 neutral – Hiring practices therefore fell within the scope of central bargaining for the 2022 round of collective bargaining.

ELEMENTARY TEACHERS’ FEDERATION OF ONTARIO, RE: **THE CROWN IN RIGHT OF ONTARIO AS REPRESENTED BY THE MINISTRY OF EDUCATION**, AND THE ONTARIO PUBLIC SCHOOL BOARDS’ ASSOCIATION, OLRB Case No: 1420-22-M; Dated December 6, 2022; (2022 CanLII 120365)

Key decisions April 1, 2022 – March 31, 2023 (continued)

Judicial Review - Construction Industry – Related Employer – Damages – Ontario Court of Appeal (ONCA) set aside Divisional Court decision and upheld original Board decisions - Unions filed a related employer application and a construction grievance against T. – The Board found T. and his former business were a single employer within the meaning of s. 1(4) of the *Labour Relations Act* (the “*Act*”), that T. was bound to a collective agreement with the Unions, and in the grievance proceeding, ordered damages in respect of T.’s violations of the collective agreement – Divisional Court quashed the Board’s decision as unreasonable – Divisional Court found there was no valid labour relations purpose to this related employer declaration – Divisional Court found this was not a case where an employer intentionally repositioned its business to avoid labour relations obligations – ONCA found the Board decisions were reasonable, applying the considerations set out in *Vavilov* – The Board decisions properly assessed the evidence and the parties’ submissions, and the potential impact on T. – A consideration of the relevant legal constraints reinforced the reasonableness of the decisions – S. 1(4) of the *Act* confers a broad discretion on the Board – Where the pre-conditions under s. 1(4) are met, the Board may make a related employer declaration, and s. 1(4) does not expressly require other matters to be considered – The Divisional Court erred in its application of the reasonableness standard as set out in *Vavilov* and failed to show the requisite restraint and respect for the specialized expertise of the Board – The Board did consider whether there was a labour relations purpose for the single employer declaration, particularly the erosion of bargaining rights – It was not open to the Divisional Court to substitute its own opinion that there was no labour relations purpose – The Board properly considered s. 126(3) of the *Act* – The Divisional Court improperly made findings of fact that were not before the Board – ONCA further concluded that the Board’s damages award, which applied *Blouin Drywall*, was reasonable – Finally, ONCA concluded that the Divisional Court erred in refusing to remit the matters to the Board and instead substituting its own decision – Appeal allowed and Divisional Court decision set aside.

TURKIEWICZ (TOMASZ TURKIEWICZ CUSTOM MASONRY HOMES) RE: BRICKLAYERS, MASONS INDEPENDENT UNION OF CANADA, LOCAL 1; Court of Appeal File No. C69929; Dated November 16, 2022; Panel: Gillese, Trotter, and Harvison Young J.J.A. (2022 ONCA 780)

Judicial Review – Related Employer – Sub-Contracting – Ontario Court of Appeal (ONCA) set aside Divisional Court decision and upheld original Board decisions - Union filed application under s. 1(4) of the *Labour Relations Act* (the “*Act*”) against the Employer and three of its contractors – Board found the Employer and two of the contractors were related and issued a declaration under s. 1(4) – Board held the contracting out provisions under the collective agreement and settlement, and the ss. 1(4) and 69 analyses were separate and distinct – Board found the pre-conditions for a s. 1(4) declaration were met and there was a valid labour relations reason to issue the declaration in respect of two of the contractors – Divisional Court quashed the Board decision – Divisional Court concluded the Board’s decision failed to take into account the parties’ bargaining history, collective agreement, and the relevant letters of understanding which address the contracting out provisions – ONCA disagreed with the Divisional Court and upheld the original Board decision – ONCA found the Board decision was rational and logical – The pre-conditions for a single employer declaration were met and there was a valid labour relations purpose – The Board decision was tenable in light of the factual and legal constraints – The Board clearly identified the evidence, the parties’ submissions and labour relations concerns with the s. 1(4) declaration – S. 1(4) of the *Act* confers a broad discretion to the Board – The Board was informed by a significant body of jurisprudence – Divisional Court did not properly apply *Vavilov* and instead substituted its own findings – The Divisional Court should not have undertaken a de novo analysis, and did not properly assess the Board’s reasons – Appeal allowed and Divisional Court decision set aside, restoring Board’s Decision

ENERCARE HOME & COMMERCIAL SERVICES LIMITED PARTNERSHIP, RE: UNIFOR LOCAL 975; Court of Appeal File No. C69933; Dated: November 16, 2022; Panel: Gillese, Trotter, and Harvison Young J.J.A. (2022 ONCA 779)

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 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 slightly lower than the prior fiscal due to lower part time per diem costs. Transportation expenditures continued to result in a significant savings lower travel as well as conference attendance being put on hold which consequently resulted in a significant savings for the Board. Throughout the fiscal year, services expenses were slightly lower than the prior fiscal as additional equipment was already in place and electronic voting remained constant. The total remuneration for all OIC appointees was \$2,934,238.

All figures in \$000.0 thousand

Account	FY 2022-23				Variance	% Variance
	Expenditure Estimates	In-year Board Approvals	Year-end Budget	Year-end Actuals		
Salaries & Wages	8,396.2	100.0	8,496.2	8,273.2	223.0	2.6%
Benefits	1,038.90	10.0	1,048.9	1,180.1	(131.2)	-12.5%
ODOE:						
Transportation & Communication	419.5		419.5	111.8	307.7	73.3%
Services (Including Lease)	2,314.6	390.0	2,704.6	2,712.1	(7.5)	-0.3%
Supplies & Equipment	82.2		82.2	198.5	(116.3)	-141.5%
Total ODOE	2,816.3	390.0	3,206.3	3,022.4	183.9	5.7%
Grand Total	12,251.4	500.0	12,751.4	12,475.7	275.7	2.2%

Non-Tax Revenue	2021-22 Revenue
Construction Grievance	483.3
Publications	
Subscriptions	2.2
TOTAL	485.5

Figure 39

Figure 38

Appendix A

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
- *Building Opportunities in the Skilled Trades Act*, 2021, S.O. 2021, c. 28
- *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:
 - o *Environmental Assessment Act*, R.S.O. 1990, c.E.18
 - o *Environmental Protection Act*, R.S.O. 1990, c.E.19
 - o *Fisheries Act*, R.S.C. 1985, c.F-14
 - o *Nutrient Management Act*, 2002, S.O. 2002, c. 4
 - o *Ontario Water Resources Act*, R.S.O. 1990, c.O.40
 - o *Pesticides Act*, R.S.O. 1990, c.P.11
 - o *Safe Drinking Water Act*, 2002, S.O. 2002, c.32
 - o *Toxics Reduction Act*, 2009, S.O. 2009, c.19

- *Fire Protection and Prevention Act*, 1997, S.O. 1997, c.4
- *Fixing Long-Term Care Act*, 2021, S.O. 2021, c. 39, Sched. 1
- *Government Contract Wages Act*, 2018, S.O., c.92
- *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
- *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
- *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. 2017, c. 26 Sched. 3
- *Tribunal Adjudicative Records Act* 2019, S.O. 2019, c. 7, Sched. 60

Appendix B – Order in Council Appointments- Full-time

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. The following is a chart of OICs working in 2022/2023, their appointment terms and remuneration paid in 2022/2023.

Annual remuneration for full-time appointees to the Board is set by a Directive issued by Management Board of Cabinet. The maximum annual salary varies on whether the term of appointment is a first, second or third term. The remuneration actually paid to an individual appointee may be less than the maximum set by the Management Board Directive due to individual circumstances such as a change in term of appointment during the year including resignation or retirement, sick leave, unpaid leave of absence or time spent by an appointee cross-appointed to another tribunal. Remuneration for part-time appointees to the Board is based on a per diem rate established by Management Board of Cabinet. As a result, annual remuneration set out in the chart above will vary according to work assigned to individual part-time appointees.

** The Vice Chair and Members’ appointments ended in prior fiscal periods. Pursuant to subsection 110(7) of the *Labour Relations Act*, the Chair authorized the Vice Chair or Member to complete matters on which they were seized.

Name	First Appointed	Term of Appointment	Remuneration Paid
Chair			
Fishbein, Bernard **	February 28, 2011	February 27, 2022	\$1,846.88
O'Byrne, Brian	February 28, 2022	February 27, 2024	\$223,581.00
Alternate Chair/Vice Chair			
Lawrence, Lindsay	November 3, 2022	September 1, 2023	\$127,443.80
Full Time VCs			
Beatty, Adam	June 30, 2016	May 2, 2022	\$31,320.00
Debane, Genevieve	June 30, 2016	June 29, 2026	\$155,543.00
Doyle, Maureen	February 7, 2021	February 22, 2026	\$155,543.00
Keating, Neil	January 22, 2021	January 21, 2026	\$137,575.00
Kelly, Patrick	May 17, 1999	June 2, 2023	\$155,543.00
Kugler, Jesse	August 26, 2021	August 25, 2023	\$136,078.00
Lawrence, Lindsay	September 2, 2021	September 1, 2023	As Above
Lewis, John	March 11, 2009	March 10, 2024	\$155,543.00
McCrory, Michael	August 29, 2019	August 28, 2024	\$143,006.00
McFadden, Michael	November 5, 2014	November 4, 2024	\$155,543.00
McGilvery, Rosyln	September 9, 2013	October 30, 2023	\$155,543.00
Mitchell, C. Michael	July 22, 2015	March 8, 2025	\$155,543.00
Morrison, Danna	February 17, 2022	February 16, 2024	\$136,078.00
Ross, David	November 15, 2017	November 14, 2025	\$50,397.52
Ross, Peigi	August 29, 2019	August 28, 2024	\$145,810.00
Rowan, Caroline	May 6, 1999	May 7, 2025	\$135,333.08
Seveny, Yvon **	May 25, 2015	March 1, 2022	\$22,548.63
Slaughter, Jack	February 3, 2003	February 2, 2026	\$155,543.00
Turtle, Paula **	July 22, 2015	July 21, 2020	\$10,884.25
Waddingham, Kelly	April 7, 2004	December 31, 2022	\$133,982.51

Appendix B

Order in Council

Appointments – Part-time

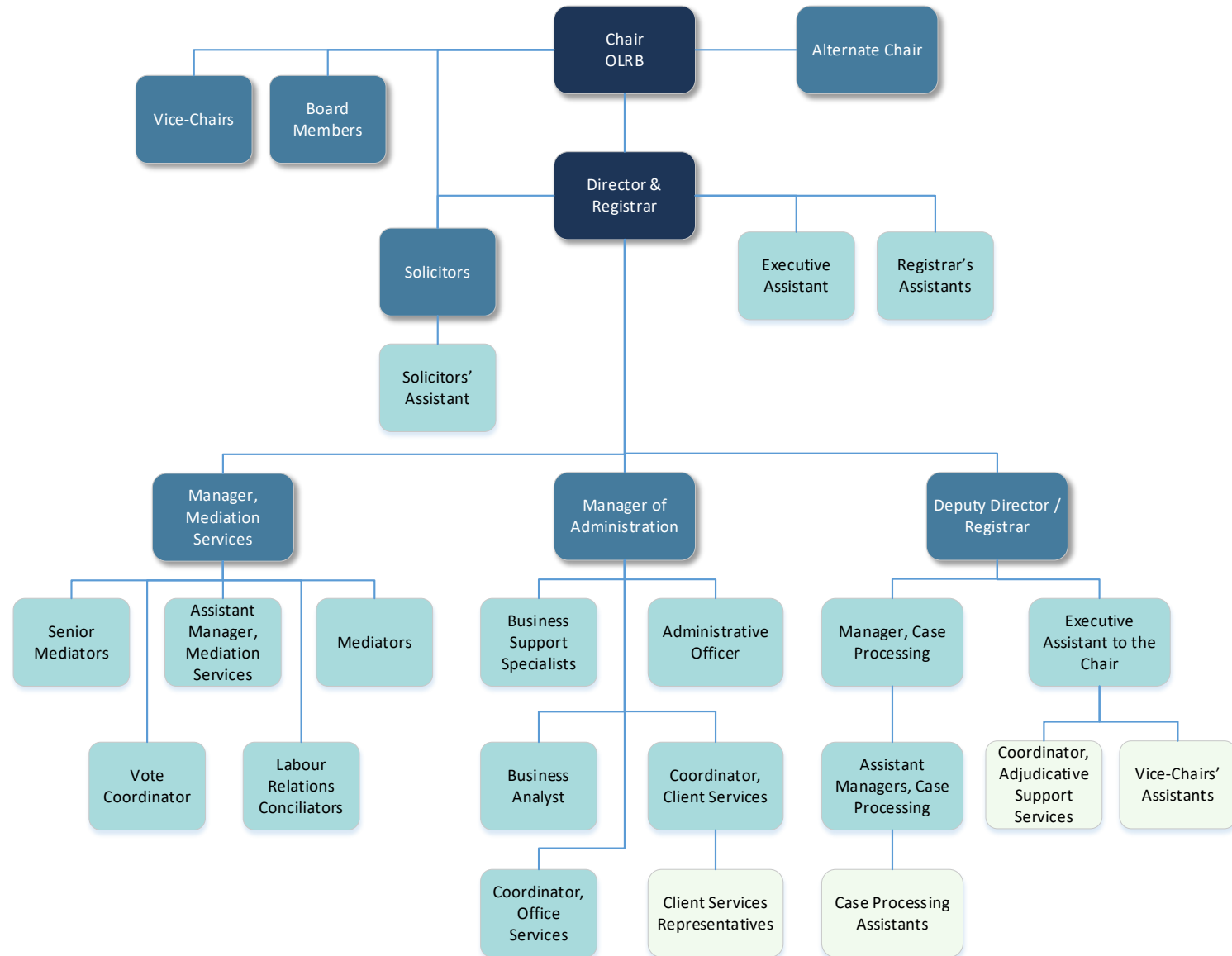
Name	First Appointed	Term of Appointment	Renumeration Paid
Part-time VCs			
Cave, Johanne	March 7, 2019	March 6, 2024	\$6,501.00
Green, Maurice	May 16, 2012	July 8, 2022	\$12,755.75
Kitchen, Robert	May 30, 2012	July 8, 2027	\$47,846.44
Kuttner, Thomas	September 11, 2013	October 30, 2023	\$57,031.50
Martelli, John	May 20, 2021	May 19, 2023	\$43,162.70
McLean, Brian	July 8, 1998	July 7, 2022	\$0.00
Rogers, Derek	August 28, 2013	October 30, 2023	\$53,584.06
Smeenk, Brian	May 20, 2021	May 19, 2023	\$39,039.49
Beresford, Harvey **	October 5, 2016	October 31, 2021	\$5,910.00
P/T Members (Employer)			
Bolton, Lori	March 11, 2015	March 10, 2025	\$0.00
Cook, William	March 18, 2015	March 17, 2025	\$0.00
St. Louis, David	February 18, 2015	February 17, 2025	\$0.00
Taylor, Margaret	November 29, 2017	December 7, 2027	\$0.00
Zachar, Wayne	June 22, 2016	June 21, 2026	\$0.00
P/T Members (Employee)			
Dowding, John (Jack)	June 22, 2016	June 21, 2026	\$0.00
MacDonald, Brian	June 22, 2016	June 21, 2026	\$0.00
Nicholls, William	May 6, 2015	May 5, 2025	\$0.00
Nielsen, Heino	June 30, 2016	June 29, 2026	\$0.00

Appendix C

The OLRB's operations and staff can be broadly divided into: Adjudication, 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.

Organizational Chart



Accountability Statement

The OLRB's Annual Report for the fiscal year ending March 31, 2023 was prepared under my direction for submission to the Minister of Labour, Immigration, Training and Skills Development in accordance with the Agencies and Appointments Directive as issued by Management Board of Cabinet.

The Public Accounts of Ontario are the annual financial statements that are prepared in accordance with the accounting principles for governments issued by the Public Sector Accounting Board (PSAB). 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, Immigration, Training and Skills Development'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, Immigration, Training and Skills Development, 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, 2022 to March 31, 2023.

For More Information

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