Minutes of the OLRB Advisory Committee
March 20, 2024 (By Video Conference)

Ontario Labour Relations Board

In attendance: Brian O'Byrne – Chair, OLRB
Lindsay Lawrence – Alternate Chair, OLRB
Catherine Gilbert – Registrar, OLRB
Ursula Boylan – Deputy Registrar, OLRB
Andrea Bowker - Solicitor, OLRB

Kristen Agrell – Union
Roslyn Baichoo – Ministry of Labour
Keith Burkhardt – Employer
Lauren Donohue – Union
Aminah Hanif – Union
Stephen Krashinsky – Union
Ben Ratelband – Employer
Graham Williamson – Union

Regrets: Neil Dzuba – Employer
Chris Fiore – Employer
James Jennings – Ontario Bar Association
Aaron Hart – Solicitor, OLRB

Brian O'Byrne chaired the meeting. Meeting commenced at 5:05 pm.

1. Update on Appointments

The Chair updated the committee on the current status of appointments. The Board posted and interviewed applicants in November and made recommendations shortly thereafter. At present three full-time and two part-time candidates have been recommended; of these one full-time and two part-time candidates have been accepted by the Minister's office but these have not yet gone to Cabinet. The Chair also continues to push for higher salaries for Vice-Chairs: there has been no increase

in eight years for the OLRB vice-chairs (nor at other tribunals either, except the Ontario Energy Board).

2. In-person/video hearings

Ms. Bowker indicated the Board is in the process of refreshing its in-person hearings policy following the return to in-person hearings in 2023, asked for comments on this and on the use of electronic documents in hearings, and noted that some of the equipment in the rooms for the purpose of electronic document display was being damaged. Some members of the committee indicated that in-person hearings are preferable and suggested that the community in general is more open to in-person hearings than it might have been a year ago. Some members indicated a preference for video hearings as staff/clients are all set up to be able to do this, and many people are remote.

Ms. Agrell asked if hearings were scheduled faster depending on the mode of hearing – Ms. Gilbert indicated that they were not.

Ms. Donohue indicated a preference for in-person hearings but where a matter was a simple default hearing, some flexibility might be better, also noting that employers and firms in London are right at the 200 km limit – some in and some out.

Ms. Gilbert reminded the committee of the list of factors that is set out in the policy.

Ms. Bowker indicated that she would canvass further input from committee members.

3. Email delivery of applications

Ms. Hanif raised email delivery and whether the Board would consider a return to this method of delivering applications. She noted that where there is an ongoing relationship the unions typically have reliable email addresses and proof that it is working, and even on certification applications an email address is often publicly available.

Ms. Agrell noted that sometimes hand delivery does not actually result in the application coming to the responding party's attention.

Mr. Burkhardt noted that the preference for email delivery was understandable, and even though employers might not necessarily agree to email delivery being appropriate, it might make sense in grievance referrals. The problem from an employer's perspective is that if, for example, the certification application was left at the front door and the mail wasn't picked up for three days, the consequences are clear. With email, there can be disputes over it being missed, or going into a spam filter, etc. Not using email is cleaner, especially for applications for certification; it also ensures that when the Board sends out a confirmation of filing it will get the clients' attention.

Ms. Bowker indicated that this was something the Board could look at, and reminded the committee that email delivery was introduced during the pandemic because there was no option, but post-pandemic the Board is concerned about the fact that unlike hand or fax delivery, there is no way to prove an email was delivered, or did or didn't end up in a spam folder – it is not just whether the email address itself is reliable.

4. Timeliness of Decisions

Ms. Hanif indicated that she and her colleagues (and others, whether union-side or employer-side) had a concern about getting decisions in a timely fashion (noting that one colleague has been waiting more than two years on a health and safety application), and that sometimes even preliminary matters can take several months.

The Chair indicated that the Board is well aware of this issue; significant delay is unacceptable and that the Board has been taking steps to try to resolve the backlog and ensure it does not recur. Without commenting on any specific decisions or Vice-Chairs, the Chair also noted that Vice-Chair vacancies created a problem last year with, for example, case management hearings being scheduled further out than is normal due to a simple lack of Vice-Chairs, and this situation aggravated delays in decision writing. The Board is chipping away at the current problem with a view to resolving it in the next couple of months.

The Chair also noted that Case Management Hearings were becoming bogged down in preliminary issues, which also added to the backlog.

Ms. Lawrence indicated that it was important for parties to advise the Board as soon as possible when hearing dates are being cancelled, so that the Board can re-assign Vice-Chairs where possible rather than the day just being wasted.

Ms. Hanif asked if making inquiries about outstanding cases was useful, in case something fell between the cracks? The Chair and Ms. Gilbert indicated that this was appropriate and could be helpful.

5. Other matters

Ms. Gilbert noted that the Board was having some difficulty with parties not responding to notices from the Registrar to consult on dates, and noted that the notice to consult on dates indicates that if the parties do not respond by a certain time, the Board may schedule the dates without consultation. The Board's current practice is to renew the request to the parties, which delays scheduling, but that it may just start scheduling unilaterally. Ms. Gilbert indicated that if the other party is not responding on dates, parties should always feel free to simply write in to indicate as much and to provide their own dates.

Mr. Williamson and Mr. Krashinsky reminded the committee that their terms were coming to an end and that their replacements would be selected at the CALL conference in June.

Mr. Ratelband also indicated that he would be resigning from the committee and that the Employer side of the committee still needed to review its terms of reference for appointments, and that he would be following up on that.

Ms. Baichoo advised that the *Working for Workers Four Act* would be receiving Royal Assent on March 21, 2024.

Meeting adjourned at 6:00 pm.

Minutes taken by Andrea Bowker