

**A MESSAGE FROM THE CHAIRPERSON
OF THE
MANITOBA LABOUR BOARD**

I am pleased to submit the Annual Report outlining the activities of the Manitoba Labour Board for the period April 1, 2019 to March 31, 2020.

During this reporting period, the Manitoba Labour Board successfully fulfilled its mandate and met its important objectives. In previous messages, I have emphasized the Board's efforts to implement initiatives designed to modernize our practices and procedures so as to effectively and efficiently serve the community. Commitment to those endeavours by the Board over the course of many years positioned us to continue to provide effective service despite the unprecedented challenges created by the global pandemic which loomed during the last quarter of the fiscal year. I am very proud that the Board quickly adapted to these challenges through the nimble efforts of our staff and the cooperative assistance of the labour relations community.

I also wish to acknowledge the passing of Mr. William Hamilton. Mr. Hamilton was a giant in the field of labour law who served as the Chairperson and a Vice-Chairperson of the Board. He was a brilliant lawyer, a fair and wise adjudicator, and a kind, patient mentor. Noted Professor Erik Erikson once said, "I am what survives me". In Mr. Hamilton's case, his enduring legacy includes the sage words contained in the hundreds of arbitration and Board decisions that he wrote, and the influence he had on those of us whom he mentored and advised over his long and distinguished career.

During this reporting period, the Board also bid farewell to one of its longest serving staff members, Ms. Brenda Grouette, who recently retired. Ms. Grouette was incredibly dedicated, experienced, and hard-working. Over the course of her lengthy career, Ms. Grouette made many important contributions to the Board and the parties that appear before it. I extend my warm congratulations to her on her retirement.

I would like to express my gratitude to all of the Board's Vice-Chairpersons, Members and staff for their service. I am very grateful for their continuing guidance and expertise, and their dedication to the Board and its activities.

Colin S. Robinson
Chairperson

**MESSAGE DU PRÉSIDENT
DE LA COMMISSION DU TRAVAIL DU MANITOBA**

J'ai le plaisir de soumettre le rapport annuel faisant état des activités de la Commission du travail du Manitoba du 1^{er} avril 2019 au 31 mars 2020.

Au cours de cette période de déclaration, la Commission a respecté son mandat et a rempli ses objectifs importants. Dans mes messages précédents, j'ai mis l'accent sur les efforts de la Commission pour mettre en œuvre des initiatives orientées vers la modernisation de nos pratiques et procédures afin de servir la collectivité de manière efficiente et efficace. L'engagement de la Commission envers ces initiatives au fil des ans nous a permis de continuer à fournir efficacement nos services malgré les difficultés sans précédent créées par la pandémie mondiale qui ont surgi pendant le dernier trimestre de l'exercice financier. Je suis très fier de voir que la Commission s'est rapidement adaptée à ces difficultés grâce à la rapidité d'exécution de notre personnel et à la coopération du milieu des relations du travail.

Je tiens également à souligner le décès de M. William Hamilton. Véritable géant dans le domaine du droit du travail, M. Hamilton a assumé les fonctions de président et de vice-président de la Commission. C'était un avocat brillant, un arbitre juste et sage et un mentor patient. L'éminent professeur Erik Erikson a dit un jour « Je suis ce qui me survit ». Dans le cas de M. Hamilton, son legs durable comprend les centaines de décisions de la Commission et décisions d'arbitrage qu'il a rédigées, et l'influence qu'il a exercée sur ceux d'entre nous qu'il a encadrés et conseillés durant sa longue et brillante carrière.

Pendant la présente période de déclaration, la Commission a également fait ses adieux à l'une de ses membres ayant les plus longs états de service, M^{me} Brenda Grouette, qui a pris sa retraite. M^{me} Grouette était une employée extrêmement dévouée, expérimentée et travaillante. Au cours de sa longue carrière, M^{me} Grouette a apporté une importante contribution à la Commission et aux parties qui ont comparu devant elle. Je la félicite chaleureusement à l'occasion de son départ à la retraite.

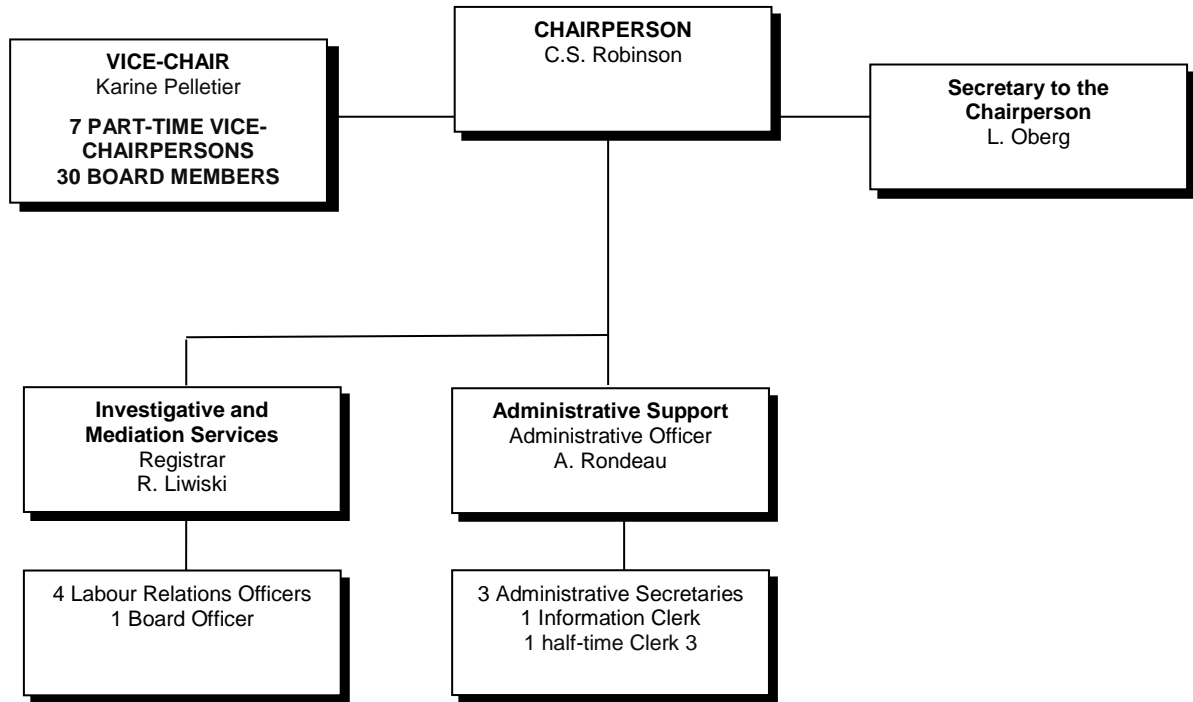
Je tiens à remercier de leurs services l'ensemble des vice-présidents, des membres et du personnel de la Commission. Je leur suis très reconnaissant de leur expertise et de leurs conseils ainsi que de leur dévouement envers la Commission et ses activités.

Colin S. Robinson
Président

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**Manitoba Labour Board
Organization Chart
April 1, 2019 - March 31, 2020**



The Manitoba Labour Board

INTRODUCTION

Report Structure

The Manitoba Labour Board ("the Board") annual report is prepared pursuant to subsection 138(14) of *The Labour Relations Act*.

"The report shall contain an account of the activities and operations of the board, the full text or summary of significant board and judicial decisions related to the board's responsibilities under this and any other Act of the Legislature, and the full text of any guidelines or practice notes which the board issued during the fiscal year."

Values and Mission

As an independent and autonomous specialist tribunal, the Board's mission is to support the fair and equitable application of the labour and employment statutes under which it has jurisdiction. The values that guide the Board activities include impartiality, efficiency, timeliness and consistency. Through its activities, the Board aims to enhance the public's understanding of the statutory rights and responsibilities in the legislation. The Board is dedicated to providing mediation to parties in an effort to help them resolve their differences where possible, while providing fair and impartial adjudication when necessary.

Objectives

- to further harmonious relations between employers and employees by encouraging the practice and procedure of collective bargaining between employers and unions as the freely designated representatives of employees;
- to discharge its statutory responsibilities in an impartial, efficient, knowledgeable, timely, respectful and consistent manner;
- to encourage and facilitate the settlement of disputes through appropriate alternative dispute resolution mechanisms where possible while providing adjudication where necessary;
- to foster understanding of the rights, responsibilities and procedures set forth in the legislation under which it has responsibilities;
- to maintain current and effective rules, practices and procedures which are clear, accessible, fair and impartial; and
- to support constructive and harmonious labour relations between employers, employees and unions.

Role

The Board is an independent and autonomous specialist tribunal responsible for the fair and efficient administration and adjudication of responsibilities assigned to it under *The Labour Relations Act* and any other Act of the Consolidated Statutes of Manitoba.

The majority of the applications are filed under *The Labour Relations Act* and *The Employment Standards Code* and *The Workplace Safety & Health Act*. The Board is also responsible for the administration and/or adjudication of matters arising under certain sections of the following Acts:

The Apprenticeship and Certification Act
The Construction Industry Wages Act
The Elections Act
The Essential Services Act (Government and Child and Family Services)
The Essential Services Act (Health Care)
The Pay Equity Act

The Public Interest Disclosure (Whistleblower Protection) Act
The Public Schools Act
The Remembrance Day Act
The Victims' Bill of Rights
The Worker Recruitment and Protection Act

The Labour Relations Act

The Board receives and processes applications regarding union certification, decertification, amended certificates, alleged unfair labour practices, expedited arbitration, first contracts, board rulings, duty of fair representation, successor rights, religious objectors and other applications pursuant to the *Act*.

The Employment Standards Code

The Board hears appeals referred to it by the Employment Standards Division regarding wages, statutory holiday pay, vacation pay and wages in lieu of notice, including provisions pursuant to *The Construction Industry Wages Act* and *The Remembrance Day Act*.

The Apprenticeship and Certification Act

The person named in a compliance order or required to pay an administrative penalty may appeal the matter to the Board within 14 days after receiving a notice under subsection 36(6) or 37(5) of the *Act*.

The Elections Act

A candidate, election officer, enumerator or an election volunteer for a candidate or a registered political party may file an application relating to requests for leave from employment under section 18 of the *Act*. An employer may apply to the Board to request an exemption from the requirement to grant a leave under section 18 of the *Act*, if the leave would be detrimental to the employer's operations. The Chairperson and the Chief Electoral Officer jointly agree upon and appoint an adjudicator to hear and decide the matter.

The Essential Services Act

The Board receives and processes applications from unions for a variation of the number of employees who must work during a work stoppage in order to maintain essential services.

The Pay Equity Act

If parties fail to reach an agreement on an issue of pay equity, within the time frames stipulated in the *Act*, any party may refer the matter to the Board for adjudication.

The Public Interest Disclosure (Whistleblower Protection) Act

Amendments to the *Act* became effective on December 1, 2018. An employee or former employee who alleges that a reprisal has been taken against them, may make a written complaint to the Ombudsman (Auditor General) under section 27.1 of the *Act*. The Board deals with appeals under the legislation as new complaints and not as a review of the investigation, decision or recommendations of the Ombudsman or Auditor General respecting the alleged reprisal. If the Board determines that a reprisal has been taken against the complainant, it may make an order pursuant to section 28(3) of the *Act*.

The Public Schools Act

Certain provisions of *The Labour Relations Act* apply to teachers, principals, bargaining agents for units of teachers and school boards.

The Victims' Bill of Rights

Victims of crime may file applications with the Board relating to requests for time off work, without pay, to attend the trial of the person accused of committing the offence, for the purpose of testifying, presenting a victim impact statement or observing any sentencing of the accused person.

The Worker Recruitment and Protection Act

The director of the Employment Standards Division is empowered, on behalf of a foreign worker, a child performer or family member on behalf of a child performer, to issue orders to recover the amount of

any prohibited recruitment fees or costs charged, directly or indirectly, by the employer or a person engaged in recruitment of the foreign worker or child performer and can also, by order, recover from an employer any reduction in wages or recover any reduction/elimination of a benefit or other term or condition of employment where the reduction is made to cover the costs of recruitment, all of which is contrary to sections 15, 16 and 17 of the *Act*. The Board has jurisdiction to hear appeals when a person affected by a director's order wishes to appeal an order of the director under these provisions. The Board hears the appeals of orders pursuant to the provisions of *The Employment Standards Code*.

The Workplace Safety and Health Act

Any person directly affected by an order or decision of a safety and health officer may appeal the order or decision to the director of Workplace Safety & Health. The director may decide the matter or refer the matter to the Board for determination. Any person affected by an order or decision of the director of Workplace Safety & Health may also appeal to the Board to have the order or decision set aside or varied.

MANITOBA LABOUR BOARD MEMBERS

In the year under review, the Board consisted of the following members.

Chairperson

Colin S. Robinson

Appointed as chairperson in 2012, Colin Robinson previously served as the Board's full-time vice-chairperson since 2003. Mr. Robinson holds a Bachelor of Arts Honours degree from the University of Manitoba and a Bachelor of Laws degree from Osgoode Hall Law School. He was called to the Bar in Manitoba in 1995 and practiced primarily in the fields of labour and administrative law prior to being appointed to the Board. In addition, Mr. Robinson serves on the board of directors of the Canadian Council of Administrative Tribunals and is actively involved in the training programs conducted by the Manitoba Council of Administrative Tribunals. He also acts as an arbitrator and mediator.

Vice-Chairpersons

Kristin L. Gibson

Appointed on a part-time basis in 2013, Kristin Gibson is a partner in the Winnipeg law firm MLT Aikins LLP. She carries on practice as a labour and employment lawyer, and as a labour mediator and arbitrator.

A. Blair Graham, Q.C.

Appointed on a part-time basis in 2006, Blair Graham holds a Bachelor of Arts degree and a Bachelor of Laws degree from the University of Manitoba. He practices law as a partner in the law firm of Thompson Dorfman Sweatman LLP with an emphasis on civil litigation, administrative law and labour arbitration as a chairperson. He was appointed a Queen's Counsel in December 1992, and inducted into the American College of Trial Lawyers in October 2004. He has been active as a chairperson in labour arbitration matters since 1997.

William (Bill) D. Hamilton

After serving as a part-time vice-chairperson from 2002 to 2005, William Hamilton served as the full-time chairperson of the Board from November 1, 2005 to October 31, 2012. Effective November 1, 2012, he was appointed as a part-time vice-chairperson serving on a half-time basis. He held a Bachelor of Arts degree from the University of Winnipeg and a Bachelor of Laws degree from the University of Manitoba. For many years, Mr. Hamilton carried on an active practice as an interest and grievance arbitrator/mediator in Manitoba.

Dennis Harrison

Appointed on a casual part-time basis in 2018, Dennis Harrison is a graduate of Red River College with a Diploma in Business Administration. He retired in June of 2017 following 32 years of employment with the Province of Manitoba in the labour department: a board officer with the Manitoba Labour Board, conciliation officer with Conciliation and Mediation Services and the executive director of Conciliation and Mediation Services.

Diane E. Jones, Q.C.

Appointed on a part-time basis since 1985, Diane Jones holds a Bachelor of Arts Honours degree from the University of Winnipeg and a Bachelor of Laws degree from the University of Manitoba. She is currently active as a chairperson in arbitration matters.

Karine Pelletier

Appointed on a part-time basis in 2016, Karine Pelletier holds a Bachelor of Arts degree from l'Université de Saint-Boniface, a Bachelor of Laws degree from L'Université d'Ottawa and a Masters of Law from the University of Ottawa. She also serves as a panel member for the Law Society Admission and Education Hearing Panel. She sits on the board of the Plug In Institute ICA and l'Association des jurists d'expression française du Manitoba. She was appointed as Manitoba Human Rights Commission Adjudicator in 2019. Before joining the Board, Karine worked both as in-house legal counsel and in private practice in the areas of administrative law and labour and employment.

Michael D. Werier

Appointed on a part-time basis in 2006, Michael Werier is counsel to the Winnipeg law firm of D'Arcy & Deacon LLP. He carries on a practice as an arbitrator/mediator in Manitoba. He is currently chairperson of the Manitoba Labour Management Review Committee, chairperson of the Board of Directors of the Workers Compensation Board of Manitoba, Arbitrator under the Northern Flood Agreement, and Chief Adjudicator of the Manitoba Human Rights Adjudication Panel.

Gavin M. Wood

Appointed on a part-time basis in 2006, Gavin Wood holds a Bachelor of Laws degree from the University of Manitoba and a Masters of Laws degree from Columbia University in New York City. He is presently practicing as a sole practitioner under the firm name of Wood Orle Litigation Lawyers. He is currently active as a chairperson in arbitration matters.

Employer Representatives**Jim H. Baker, CPA CA**

Appointed in 2000, Jim Baker has served on several not for profit boards and government agencies during and following a career spanning partnership in a regional chartered accountancy firm; and as President and CEO of the Manitoba Hotel Association. He was co-chair of the Athletes Villages committee for the 1999 Pan Am games and has been on the mission staff at the Canada and Western Canada Games. Mr. Baker is also a past director of the Winnipeg Convention Centre. Most recently he was a term lecturer at Red River College on industrial relations and human resource management. He is currently the chair of the Minister's Advisory Council on Accessibility, which is charged with developing and recommending the standards required by the *Act*, and is past chair and current treasurer of The Friends of Elmwood Cemetery.

Elizabeth M. (Betty) Black

Appointed in 1985, Betty Black is a Fellow Certified Professional Human Resource Professional (FCPHR) and holds a certificate in Human Resource Management from the University of Manitoba. She has spent over 30 years in senior human resource management roles in the private and public sectors in both union and non-union environments in the areas of manufacturing, hospitality, financial services and consulting. She is a member and past president of the Human Resource Management Association of Manitoba and has instructed in the Human Resource Management Certificate program at the University of Manitoba. She has served in voluntary leadership roles with the YMCA-YWCA of Winnipeg, the United Way of Winnipeg and numerous other community organizations.

Paul Challoner (resigned June 2019)

Appointed in 2019, Paul Challoner is an employer representative for the Manitoba Labour Board. Appointed in 2016, he is an appeal commissioner with WCB Manitoba (representing employers). He currently sits on the board of directors (Finance Committee) for the Health Science Center Foundation since 2013. Previous experience includes an appointment as a director/chair of the Finance Committee for WCB Manitoba from 2005-2016, appeal commissioner for WCB Manitoba from 1996-2004, member of the board of directors for Deer Lodge Hospital Foundation from 2010-2017. His business background comes from being the regional general manager and on the board of directors (shareholder) with Ecol Electric from 1975-2014. Ecol Electric has 56 Canadian branches, 12 South American branches, and 1000 employees. His Education comes from a Bachelor of Arts degree from The University of Winnipeg in 1975 and CSC (Canadian Security Course) diploma received 1986.

Christiane Y. Devlin

Appointed in 2002, Christiane Devlin has held senior management positions in human resources, integrating human resources within the business needs of companies in the transportation, communication and printing, agriculture, manufacturing, health care, and retail co-operatives. She is currently the manager, Human Resources with the Kleysen Group. Ms. Devlin is bilingual and her human resource management experience includes unionized and non-unionized workplaces. She also sits as a part-time commissioner at the Appeal Commission.

Tom Goodman

Appointed in 2013, Tom Goodman retired from Hudbay Minerals Inc. in June 2012 having served in a variety of senior executive roles for over 34 years both in Canada and internationally. These roles have included oversight and/or direct responsibility for human resources including labour relations for organizations of more than 1,500 employees in both union and non-union environments. He is a past director and past chairman of the Mining Association of Manitoba. He is a member of the Mining Minister's Mining Council, chairman of the Hudbay Environment Health and Safety Committee, and a director of the Technical Committee and the Audit Committee. He is a member of the Governing Council of the University College of the North. He was elected to the board of directors of Hudbay Minerals Inc. upon his retirement in June 2012.

Colleen Johnston

Appointed in 1993, Colleen Johnston is the owner of Integre Human Resources Consulting and the former director, Total Rewards, Health and Wellness for Manitoba Liquor & Lotteries. She is a graduate of the University of Manitoba with a Bachelor of Education degree and is a Fellow, Chartered Professional in Human Resources (FCPHR). She is a past chair of the Human Resource Management Association of Manitoba (HRMAM), a founding director of the Canadian Council of Human Resource Associations and a former member of the Regulatory Review Committee of the Canada Labour Code in Ottawa. She has represented Canadian employers at the United Nations in Geneva, is a past chair of the board of directors of CAA Manitoba and is currently chair of the Manitoba Advisory Committee of CAA Club Group.

Paul J. LaBossiere

Appointed in 1999, Paul LaBossiere retired from the position of president and CEO of P.M.L. Maintenance Ltd. He is past co-chairperson of the Employers Task Force on Workers Compensation, a past executive member of the Winnipeg Chamber of Commerce, past president, parliamentarian, and government affairs advisor of the Building Owners and Managers Association, a member of the Manitoba Employers Council and is a frequent international speaker on issues pertaining to the maintenance and service industries. He is a past member of the Board of Directors of the Building Services Contractors Association International (37 countries). He is the past board president of the Prairie Theatre Exchange (PTE) and a past trustee of the PTE Foundation Trust. His past affiliations include vice-chairperson and treasurer of the Winnipeg Chamber of Commerce and on the Advisory Committee for the Continuing Education Department at the University of Manitoba. He is a past trustee of Opimian Vineyard Trust and past vice-president of the Winnipeg Jazz Orchestra.

Harvey Miller

Appointed in 2010, Harvey Miller is the past president of the Merit Contractors Association of Manitoba. He holds a Bachelor of Arts degree from the University of Manitoba and a Master of Arts degree in Psychology from the University of Victoria. He has extensive senior management experience in both public and not-for-profit agencies, including the Worker Advisor Office and the Workers Compensation Board of Manitoba. He has served on numerous volunteer boards, and is a past president of the Winnipeg Mental Health Association and the Manitoba Biathlon Association.

Yvette Milner

Appointed in 1996, Yvette Milner is president of Merit Contractors Association, an industry association providing services to open shop contractors in Manitoba. She also owns a consulting company specializing in assisting companies to manage injury and illness in the workplace. Ms. Milner's background is in human resources, safety and disability management. Active in the Manitoba business community, she is involved with the Manitoba Employers Council, and the Manitoba and Winnipeg Chambers of Commerce.

Jason Peterson

Appointed in 2018, Jason Peterson is employed by Federated Cooperatives Ltd. as a labour relations advisor and has held various management positions over his career. Previously he was managing director of the Hydro Projects Management Association for Keeyask and Keewatinohk.

Brian Peto

Appointed in 2011, Brian Peto has extensive senior human resource experience in the retail, manufacturing and financial services sectors. He has served on the board of directors of one of Canada's

largest defined contribution pension plans. He is a graduate of the University of Winnipeg and Red River Community College. Mr. Peto is a former cabinet member of the United Way of Winnipeg and past president of the Human Resource Management Association of Manitoba.

Darcy Strutinsky

Appointed in 2008, Darcy Strutinsky concluded a lengthy career in senior healthcare human resource leadership positions in 2012. He now provides independent human resource, labour relations and respectful workplace consulting services to employers in the private and public sectors. He is a commissioner for the Manitoba Human Rights Commission and a board member of the Children's Hospital Foundation of Manitoba.

Andrea Thomson

Appointed in 2019, Andrea Thomson is a director of human resources and holds a Bachelor of Business Administration from Memorial University of Newfoundland. Ms. Thomson has been working in human resources for over eleven years and has extensive experience in labour/management relations, including collective bargaining, negotiations, strategic planning, employment policy, health and safety and employment training. She has experience working in construction, manufacturing and non-profit industries and is a member of Client Advisory Council with Manitoba Blue Cross.

Peter Wightman

Appointed in 2013, Peter Wightman is the executive director of the Construction Labour Relations Association of Manitoba, a position he has held since 1996. Previously, he was Manitoba Health Organization's senior labour relations negotiator/consultant providing collective bargaining and other labour relations services to all of Manitoba's health care employers and prior to that was a senior labour relations officer at the corporate headquarters of the Canada Post Corporation in Ottawa. Mr. Wightman chairs the employer caucus of the Manitoba Labour Management Review Committee, is a founding member of the Government of Manitoba's ongoing *Construction Industry Wages Act* Review Committee, and chairs a Provincial Trade Advisory Committee for the Manitoba Apprenticeship Branch. Mr. Wightman is also chairman of eight Manitoba Construction Industry Pension and Health and Welfare Benefit Trust Funds and is a Canadian director on the International Foundation of Employee Benefit Plans board of directors. A graduate of Carleton University in Ottawa, he holds a Bachelor's degree in Economics and Law and has been engaged in the field of labour relations for over 25 years.

Jim Witiuk

Appointed in 2004, Jim Witiuk is the former director of labour relations for Sobeys West Inc. with responsibility for labour relations matters in Manitoba, Saskatchewan and Ontario. He retired in 2016. He sits on a number of trustee health and welfare and pension plans as a management trustee and is a member of and sits on the Canadian Board of the International Foundation of Employee Benefit Plans. He is a past member of the Employment and Immigration Board of Referees. He serves on the Manitoba Labour Management Review Committee, serves on that group's Arbitration Advisory Sub-Committee and is an active member of the Manitoba Employers Council. Mr. Witiuk is also on the board of directors of MEBCO (Multi Employee Benefit Plan Council of Canada). He is a graduate of Carleton University in Ottawa.

Employee Representatives

George Bouchard

Appointed in 2019, George Bouchard has been employed as a national servicing representative with the Canadian Union of Public Employees (CUPE) since 2010. Coming from the airline division of CUPE, he has the opportunity to service locals in all 5 of the union's sectors, primarily focusing on the negotiations, arbitrations and general grievance handling. He was previously a member of the Social Services Appeal Board of Manitoba.

Abs Diza

Appointed in 2015, Abs Diza has been employed as a staff union representative for Workers United Canada Council since June 2006. She is actively involved in collective bargaining, grievance handling

and guiding members with their health benefits. Ms. Diza is also currently a vice-president of the Manitoba Federation of Labour.

Greg Flemming

Appointed in 2019, Greg Flemming is the executive director of the University of Manitoba Faculty Association, where he is active in grievance handling, collective bargaining, and the governance of the association. He received his Doctor of Philosophy from York University in 2015, where he was a tutor and member of the Canadian Union of Public Employees.

Dee Gillies

Appointed in 2019, Dee Gillies is an experienced organizer, negotiator, and employee representative in grievances and arbitrations. She served as the executive director of the Winnipeg Association of Public Service Officers (WAPSO) until her retirement in 2018. Prior to that she was an international representative for the International Federation of Professional and Technical Engineers (IFTPTE), and board member of the Telecommunications Employees Association of Manitoba (TEAM).

Sheila Gordon

Appointed in 2013, Sheila Gordon has been employed with the Manitoba Government and General Employees' Union (MGEU) since 1991. As a staff representative, she worked with members to resolve issues, process grievances and negotiate collective agreements in a variety of different public sector workplaces. In 2009, she was appointed MGEU director of negotiations, responsible for negotiating the Government Employees' Master Agreement, and for supporting a team of staff representatives working with members of the Manitoba Civil Service. More recently, Ms. Gordon has assumed the position of director of negotiations, responsible for all negotiations undertaken by the union. Ms. Gordon's educational background includes a Bachelor of Social Work degree from the University of Manitoba and a Master of Social Work degree from Carleton University.

Bruce Harris

Appointed in 2019, Bruce Harris has been the business manager and financial secretary treasurer of the International Association of Sheet Metal, Air, Rail, and Transportation Workers (SMART) Local 511 Manitoba since 2005. Previously, Mr. Harris was the business representative and recording secretary of Local 511 and a Red Seal sheet metal journeyman since 1981. He currently serves as a trustee on health & welfare and pension boards, as trustee/vice-president on several affiliated councils, and is a member of the Manitoba Apprenticeship and Certification Board. He is lead negotiator for the five divisions of Local 511, actively involved in labour/management issues-relations-arbitrations, organizing, and activities concerning the needs of his members.

Tom Henderson

Appointed in 2016, Tom Henderson is employed by the Manitoba Nurses Union (MNU) as a workplace safety and health officer, as well as working in labour relations, since 2002. Prior to working with the MNU, he was employed in the private sector within the aerospace industry and has held a number of leadership roles including local union president, bargaining committee chairperson, and local union discussion leader. As a labour relations officer, he deals with grievance arbitration, collective bargaining and the delivery of specific membership training needs as required. He is a certified health and safety professional and provides the MNU, and its leadership, with workplace safety and health advice and also handles files related to workplace safety and health with employers where MNU represents nurses.

Janet Kehler

Appointed in 2018, Janet Kehler has both Bachelors of Arts and Social Work degrees and began her career in child protection, going on to serve as manager of Emergency Services for the Province of Manitoba. In 2006, she took on the role as staff representative with the Manitoba Government and General Employees' Union (MGEU), where she was responsible for negotiating collective agreements, bringing grievances forward, and other member services. She went on to manage a team of staff representatives before assuming her current position as the MGEU director of Member Services. As director, Ms. Kehler oversees various components of the service continuum, including several teams of staff representatives, the MGEU's resource centre, and its legal department.

Marc Lafond

Appointed in 2016, Marc Lafond has been employed as business manager and financial secretary of the International Union of Operating Engineers of Manitoba, Local 987 (IUOE) since 2011. Previous to his employment with the IUOE, he was the executive director of OETIM Inc. a crane, heavy equipment and safety training facility from 2006 - 2011, and was a Red Seal mobile crane operator for 1997 - 2006. He currently serves as a trustee on several pension and health and welfare boards and the Workers Compensation Board. He is a graduate of the University of Manitoba Labour Studies Program.

Diane Mark

Appointed in 2018, Diane Mark, prior to retirement in early 2020, worked for the Manitoba Government and General Employees' Union since 1989, where she held the manager, member services, position since 2015. Prior to the manager position, she was a senior staff representative. Ms. Mark has been involved in servicing, facilitating, grievance handling, collective bargaining as well as participated in arbitration hearings. Ms. Mark had represented members in every sector; Civil Service, Crown Corporations, healthcare and labour relations. In addition, Ms. Mark trained and mentored staff. In 1994, Ms. Mark graduated from the University of Manitoba Labour Program and in 2000 attended Queen's University Industrial Relations – Negotiation Skills, as well as NUPGE Leadership School in 2010.

Rik A. Panciera

Appointed in 2011, Rik Panciera is currently employed as a national staff representative for the Canadian Union of Public Employees where he has served for the past 24 years. As a staff representative, he deals with daily grievance and labour/management issues, as well as negotiates collective agreements.

Tony Sproule

Appointed in 2018, Tony Sproule is currently employed as an international representative with the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (USW) since 2006. As the area supervisor of staff representatives, he deals primarily with grievance arbitration matters, collective bargaining, organizing, member education and facilitating of the USW constitution within the Province of Manitoba.

Bobbi Taillefer (resigned October 2019)

Appointed in 2014, Bobbi Taillefer is the general secretary of the Manitoba Teachers' Society (MTS). Prior to assuming that role, she held positions of assistant general secretary, staff labour representative and bargainer for teachers across the province. Prior to joining MTS, Ms. Taillefer was a high school teacher and principal in Winnipeg. Her educational background includes a Masters in Educational Administration and undergraduate degrees and certificates in human resources, economics, political sciences and law. Ms. Taillefer is bilingual in French and English.

Sonia E. Taylor

Appointed in 2005, Sonia Taylor has been employed since 1991 as a union representative with the United Food and Commercial Workers Union, Local No. 832. She is actively involved in grievance handling, negotiations, arbitrations and organizing.

Glenn Tomchak

Appointed in 2015, Glenn Tomchak has held positions in International Association of Machinists and Aerospace Workers, Local 1953 executive since 1984; including six years as chief steward and 19 years as president, dealing with grievance arbitration matters, collective bargaining and shop issues. In March 2015, he was elected as the directing business representative for District 181. Mr. Tomchak has worked at Motor Coach Industries for over 30 years.

OPERATIONAL OVERVIEW

Adjudication

During 2019/20, the Board was comprised of a full-time chairperson, a vice-chairperson, seven part-time vice-chairpersons and 30 board members with an equal number of employer and employee representatives. The chairperson is the presiding officer of the Board pursuant to the provisions of *The Labour Relations Act*. Part-time vice-chairpersons and board members are appointed by Order in Council and are paid in accordance with the number of meetings and hearings held throughout the year. The Board does not retain legal counsel on staff; legal services are provided through Legal Services Branch of Manitoba Justice.

Investigative and Mediation Services

Investigative and mediation services is comprised of the registrar and five board officers. The registrar, who reports to the chairperson, is the official responsible for the supervision of the day-to-day investigative and mediation activities of the Board. The primary responsibility of the registrar is the development and execution of the administrative workload as it relates to the various *Acts* under which the Board derives its adjudicative powers. The registrar, in conjunction with the chairperson and board members, is involved in the establishment of Board practice and policy. The registrar, together with the board officers, communicates with all parties and with the public regarding Board policies, procedures and jurisprudence.

Reporting to the registrar are four labour relations board officers who are responsible for dealing with various cases and conducting investigations pertaining to the applications filed with the Board, under the legislation. They are appointed to act as Board representatives to attempt to resolve issues between parties, reducing the need for hearings. They act as returning officers in Board conducted representation votes, attend hearings and assist the registrar in the processing of various applications. They assist parties in concluding a first or subsequent collective agreement and they act as mediators during the dispute resolution process. Also reporting to the registrar is a board officer, primarily responsible for processing all referrals from the director of the Employment Standards Division and who is involved in mediation efforts in an attempt to resolve the issues.

Administrative Services

Administrative services is comprised of the administrative officer and administrative support staff. Reporting to the chairperson, the administrative officer is responsible for the day-to-day administrative support of the Board, fiscal control and accountability of operational expenditures and the development and monitoring of office systems and procedures.

Library Collection

Copies of these documents can be viewed by the public in the Board's office or made available in accordance with the fee schedule.

- Arbitration awards
- Collective agreements
- Certificates
- Unions' constitution & by-laws
- Written Reasons for Decision and Substantive Orders

Publications Issued

Manitoba Labour Board Annual Report - a publication disclosing the Board's staffing and membership as well as highlights of significant Board and court decisions and statistics of the various matters dealt with during the reporting period.

The Board distributes full-text copies of Written Reasons for Decision and Substantive Orders to various publishers, including CanLii, for selection and reprinting in their publications or on their websites.

Website Contents

<http://www.gov.mb.ca/labour/labbrd>

*link to French version available

- Board Members* (list and biographies)
- Forms*
- "Guide to *The Labour Relations Act*"* (explanations in lay persons' terms of the various provisions of the *Act* and the role of the Board)
- Preparing for Your Hearing*
- Information Bulletins* (listing and full text)
- Manitoba Labour Board's Arbitrators List* (list of arbitrators maintained pursuant to section 117(2) of *The Labour Relations Act*)
- Written Reasons for Decision and Substantive Orders (full text, English only, from January 2007 to present, with key word search capability)
- *The Labour Relations Act* and other statutes under which the Board has jurisdiction*
- Regulations* (including the *Manitoba Labour Board Rules of Procedure*)
- Library
- Publications* (list and links for convenient access, including previous annual reports)

E-mail (General Enquiry)

MLB@gov.mb.ca

E-mail (Case Related)

MLBRegistrar@gov.mb.ca

E-mail service is available for general enquiries and requests for information.

If you wish to file an application, contact:

Manitoba Labour Board
Suite 500, 5th Floor - 175 Hargrave Street
Winnipeg, Manitoba, Canada R3C 3R8
Telephone: 204-945-2089 Fax: 204-945-1296

Information Bulletins

The Board produces information bulletins regarding its practice and procedure. The following is a list of the current information bulletins.

1. Review and Reconsideration
2. *Manitoba Labour Board Rules of Procedure* – Regulation 184/87 R - Rule 28 (Part V – Rules of Board Practice)
3. The Certification Process
4. Financial Disclosure
5. Fee Schedule
6. Arbitrators List
7. Filing of Collective Agreements
8. Process for the Settlement of a First Collective Agreement
9. Objections on Applications for Certification
10. *The Employment Standards Code* - Appeal Hearings
11. Reduction of Deposits on Referrals to the Manitoba Labour Board under *The Employment Standards Code*
12. Exemption to Requests for Leave under *The Elections Act*
13. Extension of Time to File Documentation, Notice of Hearing and Request for Adjournment
14. Bargaining Agent's Duty of Fair Representation
15. Disclosure of Personal Information
16. Appointment of Arbitrators
17. Grievance Arbitration/*The Labour Relations Act*
18. *The Employment Standards Code* – Appeal Hearings – Administrative Penalties

The information bulletins are available on the Board's website at <http://www.gov.mb.ca/labour/labbrd/bulletin.html>. Copies of the information bulletins may be requested from the Board by calling 204-945-2089 or by emailing the Board at MLB@gov.mb.ca.

SUSTAINABLE DEVELOPMENT

The Manitoba Labour Board is committed to ensuring that its activities conform to the principles of sustainable development. The Board promoted sustainable development through various activities including recycling, paper management, use of environmentally preferable products and duplex copying.

FINANCIAL INFORMATION

Expenditures by Sub-Appropriation	Actual 2019/20 (\$000s)	FTE's	Estimate 2019/20 \$(000s)	Variance Over/(Under) \$(000s)	Expl. No.
Total Salaries	1,331	14.50	1,422	(91)	
Total Other Expenditures	157		200	(43)	
Total Expenditures	1,488	14.50	1,622	(134)	

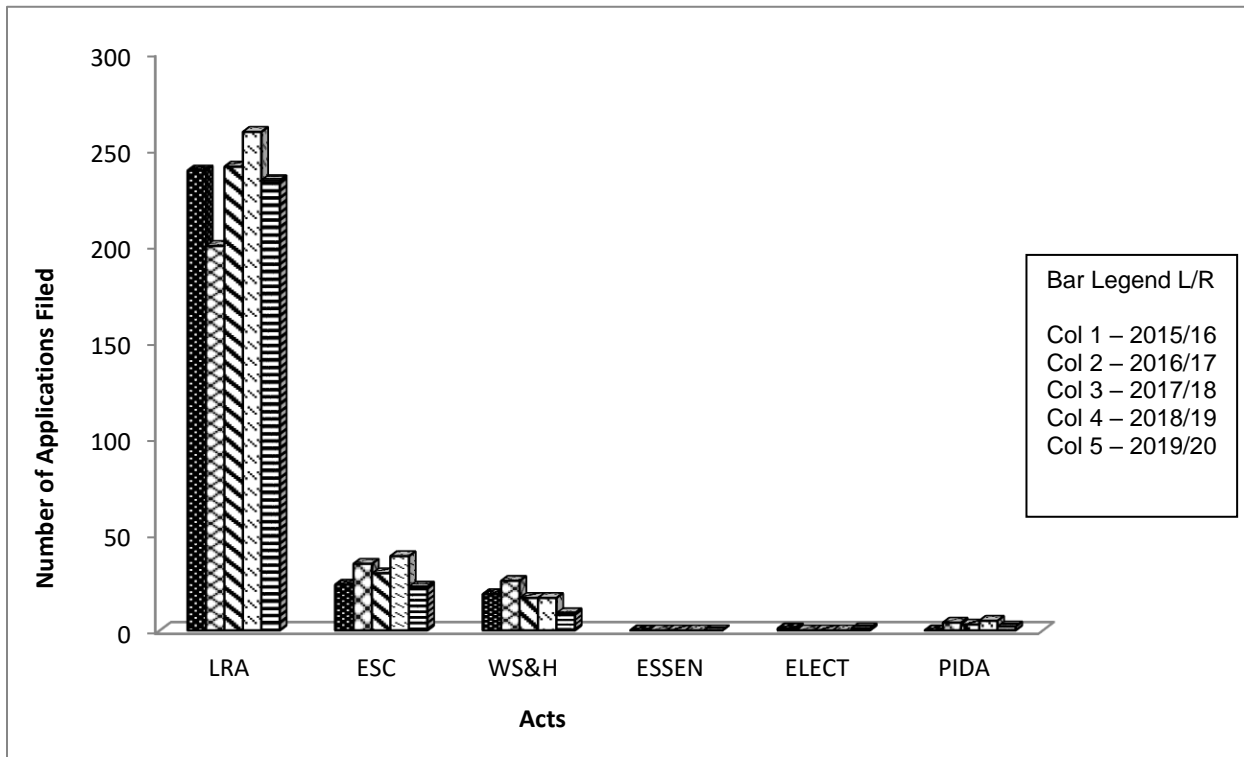
PERFORMANCE REPORTING

Summary of Performance

The Manitoba Labour Board adjudicated disputes referred to it under various provincial statutes. The Board conducted formal hearings and encouraged the settlement of disputes through mediation. During the 2019/20 fiscal year, issues before the Board were resolved or narrowed in over 90.6 percent of cases where a board representative conducted mediation.

The number of applications filed with the Manitoba Labour Board during the past 5 years (for the period April 1 to March 31) is indicated in the chart below.

**Manitoba Labour Board
Number of Applications Filed**



*Types of Applications

LRA	Labour Relations Act
ESC	Employment Standards Code
WS&H	Workplace Safety and Health Act
ESSEN	Essential Services Act
ELECT	Elections Act
PIDA	Public Interest Disclosure Act

Detailed statistical tables can be found beginning on page 39 of this report.

Program Performance Measurements

During the past reporting year, the Board continued its initiative to measure service activities and client responsiveness.

Program Performance Measurements

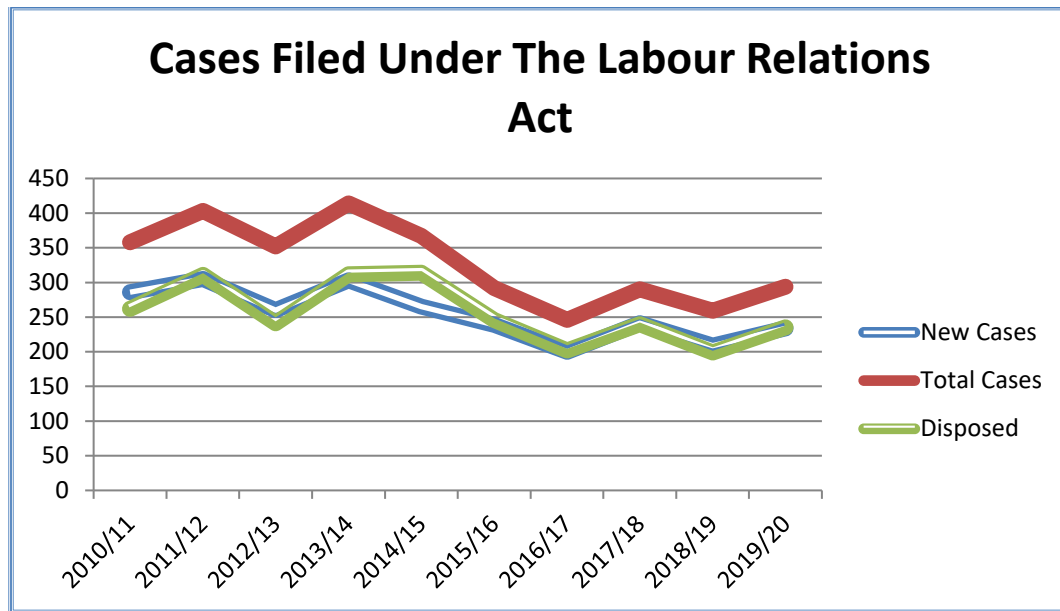
April 1 - March 31

Indicator	Actual 2018/19	Actual 2019/20
Percentage of Cases disposed of	75%	77%
Number of hearing dates scheduled	289	231
Percentage of hearings that proceeded	25%	24%
Number of votes conducted	29	37
Median processing time (calendar days):		
<i>The Labour Relations Act</i>	51	53
* <i>The Workplace Safety and Health Act</i>	135	159
<i>The Essential Services Act</i>	N/A	N/A
<i>The Elections Act</i>	N/A	107
<i>The Employment Standards Code</i>	118	114
* <i>The Public Interest Disclosure (Whistleblower Protection) Act</i>	160	93.5

"N/A" - No applications processed in reporting period

*Note: Given the small number of application/appeals dealt with under these statutes, the median processing time may not necessarily be indicative of the typical time the Board has worked on these cases.

Ten Year Trends

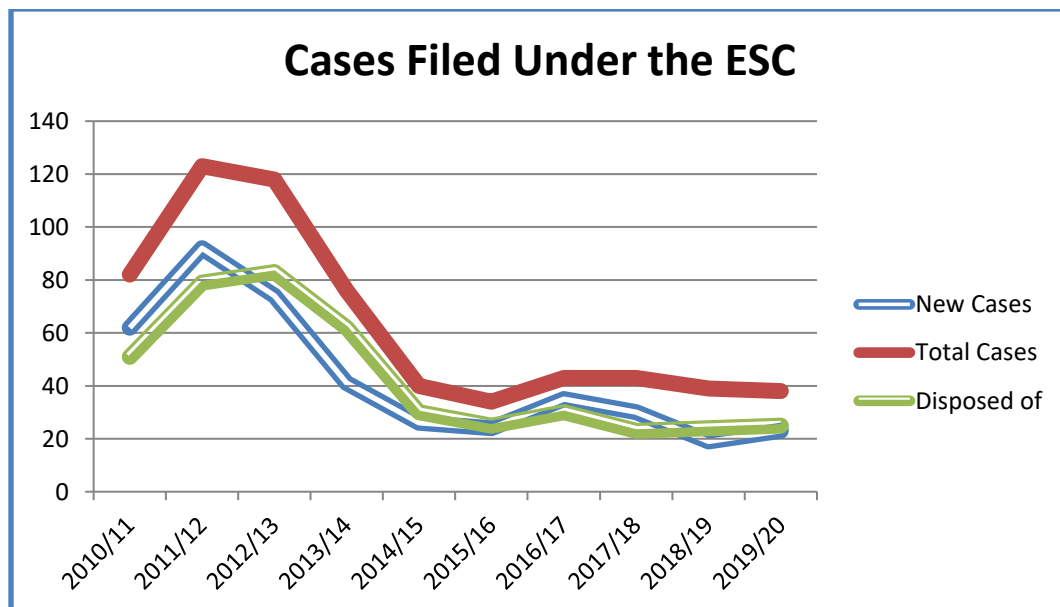


2019/2020 Totals	
New Cases:	235
Total Cases:	294
Disposed:	235

The ten-year trend in the number of new cases filed under *The Labour Relations Act* ranges from the minimum of 200 applications filed in 2016/17 to a maximum of 305 filed in 2011/12. The average number of applications filed each year is 254.3 files.

On average, the Board disposed of 256.3 cases per year which were filed under *The Labour Relations Act*.

	Min	Max	Avg
Cases Filed	200	305	254.2
Total Cases	246	414	327.5
Disposed	199	314	256.2

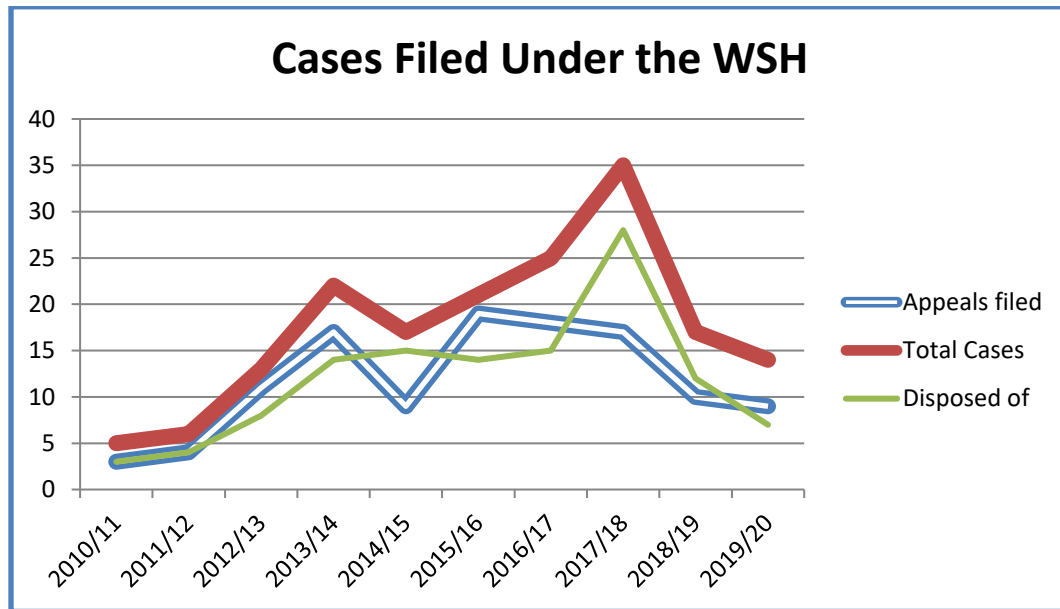


2019/2020 Totals	
New Cases:	23
Total Cases:	38
Disposed:	25

The ten-year trend in the number of new cases filed under *The Employment Standards Code* ranges from the minimum of 19 applications filed in 2018/19 to a maximum of 92 filed in 2011/12. The average number of applications filed each year is 42.6 files.

On average, the Board disposed of 43.2 cases per year which were filed under *The Employment Standards Code*.

	Min	Max	Avg
New Cases	19	92	42.6
Total Cases	34	123	63.6
Disposed of	23	83	43.2



2019/2020 Totals	
New Cases:	9
Total Cases:	14
Disposed:	7

The ten-year trend in the number of new cases filed under *The Workplace Safety and Health Act* ranges from the minimum of 3 application filed in 2010/11 to a maximum of 19 filed in 2015/16. The average number of applications filed each year is 11.7 files.

On average, the Board disposed of 12 cases per year which were filed under *The Workplace Safety and Health Act*.

	Min	Max	Avg
New Cases	3	19	11.7
Total Cases	5	35	17.5
Disposed of	3	28	12

Key Statistics in the Reporting Period

- 350 cases before the Board (pending from previous period plus new applications);
- 271 (77 percent) of the cases before the Board were disposed of/closed;
- 105 applications scheduled for hearing;
- 56 hearing dates proceeded;
- Board conducted 37 votes; and
- Issued 57 Written Reasons for Decision or Substantive Orders.

Ongoing Activities and Strategic Priorities

- Review and evaluate the organizational structure;
- Develop succession plan for key positions;
- Promote learning plans for staff;
- Conduct bi-annual seminar for vice-chairpersons and Board members;
- Strengthen the capacity to perform mediation;
- Increase use of alternative dispute resolution techniques to effect successful dispute resolutions without the need for formal hearings;
- Improve practices and procedures to increase efficiencies;
- Modernize communications;
- Maintain information available on the website for ready access by the labour relations community, legal practitioners, educators and the public;
- Maintain accountability for allocated budget;
- Explore options for creating efficiencies and reducing costs.

Statistiques importantes pendant la période de référence

- 350 cas ont été portés devant la Commission (demandes en instance depuis l'exercice précédent et nouvelles demandes).
- 77 % des cas portés devant la Commission (271) ont été réglés ou classés.
- Une date d'audience a été fixée pour 105 demandes.
- La Commission a tenu 56 audiences.
- La Commission a tenu 37 votes.
- La Commission a rendu 57 motifs écrits de décision ou ordonnances importantes.

Activités en cours et priorités stratégiques

- Révision et évaluation de la structure organisationnelle.
- Élaboration d'un plan de relève pour des postes de premier plan.
- Promotion de plans d'apprentissage à l'intention du personnel.
- Tenue de séminaires semestriels pour les vice-présidents et les membres de la Commission.
- Renforcement de la capacité d'effectuer la médiation.
- Augmentation de l'utilisation d'autres modes de règlement des différends afin de permettre le règlement de différends sans avoir recours à des audiences officielles.
- Amélioration des pratiques et des procédures et augmentation de l'efficacité.
- Modernisation des communications.
- Diffusion de davantage de renseignements sur le site Web afin qu'ils soient facilement accessibles aux intervenants du secteur des relations du travail, aux professionnels du droit, aux éducateurs et au public.
- Respect de l'obligation redditionnelle pour le budget alloué.
- Exploration des possibilités pour créer des économies et réduire les coûts.

SUMMARIES OF SIGNIFICANT BOARD DECISIONS

Under *The Labour Relations Act*

SAMSON INDUSTRIES LTD -and- M.W

Case 216/18/LRA

April 16, 2019

MATERNITY LEAVE – FAILURE TO REINSTATE – Employee terminated after attempting to return to work following maternity/parental leave - Employer appealed Order to pay wage loss, vacation wages and expenses, on basis that termination was justified and was not a result of Employee's maternity/parental leave – Employer asserted that issues with Employee's reporting of hours and behaviour when Employer attempted to secure the password to the computer used by Employee, led Employer to conclude that the employment relationship should end - Board determined that other than the timing of Employee's leave, there was no evidence that satisfactorily established that Employee's pregnancy and associated leave was a factor in decision to dismiss and Employee's termination was a result of Employee's conduct while on leave – Board ordered portion of Employee's claim related to wage loss, vacation wages and expenses be dismissed – Reasons for decision.

NOTICE – DISCHARGE – JUST CAUSE – Employer argued there was just cause to terminate employment without notice or wages in lieu of notice – Employer asserted that Employee's failure, following an overbilling issue, to adequately deduct correct amount of hours, and Employee's resistance to communicate the password to her work computer despite repeated requests were sufficient grounds to terminate employment within meaning of subsection 62(1)(h) of *The Employment Standards Code* - Board found that on the issue of discrepancy in pay that it was not prepared to conclude that Employee was dishonest or untruthful and did not accept that Employee knowingly attempted to steal from or to deceive Employer – Board concluded that Employee demonstrated carelessness and inattentiveness - This as well as Employee's unwillingness to accede Employer's request to provide computer password in a timely manner, did demonstrate that there was cause for discipline - However, Board was not convinced that Employer's response to terminate was proportional to Employee's actions, specifically in light of Board's finding that theft was not established - Board determined Employer did not meet onus to establish it had just cause to terminate employment of Employee within meaning of subsection 62(1)(h) of the *Code* - Employee is entitled to receive wages in lieu of notice – Reasons for decision.

BBE HYDRO CONSTRUCTORS -and- International Union of Operating Engineers, Local 987 -and- C.G

Case No. 164/16/LRA

April 26, 2019

UNFAIR LABOUR PRACTICE – Applicant Employee argued that Union had failed to represent him in respect of a number of matters, including employment-related issues and concerns that culminated in the end of his employment - Applicant testified that he brought forward safety concerns with various representatives of the Employer prior to leaving the site following his twenty-seven day rotation – Shortly thereafter, the Applicant was contacted via telephone and advised that he was being laid-off due to a shortage of work - Applicant was suspicious of the reasons for the lay-off and contacted Union – Applicant understood from discussion with union that a grievance would be filed – Union testified that no grievance was filed as the Applicant had not requested it, and because there was no violation of the collective agreement – Applicant claimed that the Union had not appropriately investigated his complaint – Union representative testified that she investigated the matter and came to the conclusion that there was nothing

untoward with the Applicant's lay-off – Applicant requested legal counsel, and requested a comprehensive investigation – File was sent over to legal counsel – Union sought legal opinion, which opinion was shared with the Applicant – applicant advised that there was little likelihood of success – Legal counsel invited Applicant to contact him to discuss or to provide additional information for consideration – Applicant did not contact Union or legal counsel and filed an Application with the Board - Board not convinced that Union or its representatives demonstrated arbitrariness, or failed to exercise reasonable care in representing the complainant's interests in deciding not to file a grievance on behalf of the Applicant – Board found that the Union had committed errors in failing to communicate accurate information to the Applicant and in failing to respond to the Applicant, but evidence was also that Applicant did not reach out to the Union for an update - On the whole, the Board reviewed the Union's handling of the issues and determined that these errors do not sufficiently establish arbitrary conduct - Evidence was that the Applicant did not take advantage of invitations and opportunities to discuss the matter further with Union and legal counsel, and that he failed to provide additional information in support of his suppositions - Applicant failed to take reasonable steps to protect his interests – Application dismissed.

SAPUTO DAIRY PRODUCTS CANADA G.P. -and- UNIFOR Local 755 -and- G.M.

Case No. 162/18/LRA

May 2, 2019

UNFAIR LABOUR PRACTICE – Employee terminated in a manner that he claims was discriminatory, unfair and unjust – Employee requested interpretive services, which were provided at the hearing – the Employee did not claim during his employment that he required interpretive services – Union advised that it would offer translation, if required – Employee never requested translation - Union claimed to have conducted a thorough investigation, determining that the grievance should not proceed to arbitration – Employee sent a letter and was contacted by phone by Union and told that would not proceed to arbitration and his right to appeal – Employee received letter, that did not include instructions on how to appeal – Employee contacted President of the Union, who advised that there was nothing he could do – Employee did not ask to Appeal the recommendation not to proceed – Employee testified that he only understood a few words of the letter he received and that he understood that the case was “closed” – Employee claims that he should have been entitled to an interpreter – Board agreed that letter recommending that matter not proceed to arbitration could have been drafted more clearly – Evidence was that Employee was aware of the process and was aware of his right to appeal – While English is not the Applicant's first language, throughout employment tenure, evidence was that he had not raised any language barrier, nor did he make known to the Union at any time that had a hard time understanding – Board determined that Union's decision not to proceed to arbitration is one that could be reasonably made in circumstances and no evidence that Union failed to exercise reasonable care in representing the Applicant – Application dismissed.

International Brotherhood of Electrical Workers 2085, BM Russ Shewchuk, ABM Dave McPhail & Jeff Skinner -and- D.H.

Case No. 145/18/LRA

June 21, 2019

UNFAIR LABOUR PRACTICE – Applicant alleges that Union has contravened section 19 of the *Act* by “removing” him from the Union and “conspiring with a contractor to have this happen” - Applicant claims that he has been discriminated against and treated unfairly by the Union - The Applicant further claims that his name has been wrongfully removed from various contractor lists – Union denied claim, alleging that it would be inappropriate for this Board to make any findings of facts on the basis of suppositions and assumptions - Union argued that the Applicant was given every access to procedural fairness, as evidenced by the many appeals available to him, which

ultimately led to the decision to reinstate his membership - To establish a violation of section 19(c), the Applicant must demonstrate that Union has applied its membership rules in a “discriminatory manner” in order to expel or suspend the individual’s membership in the Union - Board satisfied that Union’s decision to terminate Applicant’s membership, which decision was subsequently overturned through the Union’s appeal process, was consistent with its policies and the provisions of the Constitution - Applicant did not present any evidence to the Board that demonstrated that the Union applied its membership rules in a discriminatory manner - Applicant was afforded significant opportunity to contest the Union’s initial decision, and was successful in being reintegrated into the Union’s membership, not because his conduct was condoned, but rather as a result of the International President’s interpretation that “even postings as vulgar and disrespectful and profane” as the Applicant’s were not prohibited by the Union’s constitution - No evidence before the Board that any person in the Applicant’s position had been treated any differently by the Union – Board concluded that there was no evidence to demonstrate that the Union had conspired with contractor to have the Applicant terminated - Evidence revealed that the Applicant was terminated for cause – Application dismissed.

DARCO GROUP LTD., K.T., K.C., E.O., F.G. & D.T –and- International Union of Operating Engineers, Local 987 -and- E.P. & T.E.

Case No 202/18/LRA

June 27, 2019

CERTIFICATION – UNFAIR LABOUR PRACTICE – Union alleged that Employer and persons acting on its behalf interfered with an organizing drive by engaging in a campaign to simultaneously discredit it and promote an employee association. Union further alleged that two employees in the proposed bargaining unit engaged in campaign to undermine the organizing drive and that senior management initiated and/or facilitated their efforts to persuade other employees to withhold or withdraw their support from the Applicant – Employer and employees named by union denied allegations and claimed that the two employees in the proposed bargaining unit that opposed union were not acting on its behalf and were freely exercising their rights under the Act to engage in a debate about the merits of certification – Board satisfied that the two employees were exercising their rights to free speech under the statute and did not act on behalf of the Employer or engage in conduct prohibited by the legislation - Board concluded that Employer facilitated one of the employees in his campaign against union and in support of an employee association. In addition, one of the Employer’s managers committed an unfair labour practice when he asked an employee to obtain information for him about the Union and its organizing drive – Board determined that Employer, and persons acting on its behalf, committed unfair labour practices.

REMEDIES – DISCRETIONARY CERTIFICATION – Board not satisfied that discretionary certification is an appropriate remedy in the circumstances. True wishes of employees can be ascertained by vote notwithstanding the unfair labour practices. Board issued declaration of unfair labour practice, ordered Employer to pay \$2,000 to Union, cease and desist order, and Employer directed to post notice of decision in workplace. Board indicated six-month bar on seeking certification would not be applied if Union filed a new certification application for certification for the bargaining unit.

WINTEC BUILDING SERVICES INC., E.I. & Q.E. -and- Construction and Specialized Workers Union Local 1258 -and- T.U. & O.C.

Case No. 186/18/LRA

July 12, 2019

CERTIFICATION – UNFAIR LABOUR PRACTICE – Employee called into a meeting about which he had no advance warning and no choice but to attend, where he was told that if the Union was

successful it would have a negative impact on Wintec's business and most likely on his own rate of pay. Promises of wage increases and benefit improvements in meeting with another employee were made in the context of negative comments about the value of unionization. Purpose and timing of wage increases was to influence individuals in the event the Union had agreed to a second vote. – Board accepted that person acting on behalf of the Employer to induce employees to refrain from exercising their rights under the *Act*. Employer committed unfair labour practices contrary to a number of provisions of the *Act*, including sections 5, 6, 10 and 17.

REMEDIES – DISCRETIONARY CERTIFICATION – Whether the cumulative effect of the Unfair Labour Practices that the Employer has been found to have committed is such that the true wishes of the employees is not likely to be ascertained. Board determined that there were a variety of violations of the *Act*, including both threats to monetary and potentially job security, inquiries about union support, promises of benefits and wage increases, and actual wage increases, all against a background of disparagement of the Union and what it had to offer. Cumulative effect of unlawful conduct undermined the employees' ability to choose freely whether they wanted a trade union to represent them. As a result, the true wishes of the employees were not likely to be ascertained by either a counting of the vote or the holding of a new vote. – Criteria set out in section 41 of the *Act* met and discretionary certification, along with the other remedies, is appropriate to counteract the Employer's contraventions of the *Act*.

WINNIPEG FIRE AND PARAMEDIC SERVICE -and- UFFW United Firefighters of Winnipeg IAFF Local 867 -and- K.I.

Case No. 206/18/LRA

July 22, 2019

UNFAIR LABOUR PRACTICE – Applicant asserted Union breached duty of fair representation when it did not to file grievance challenging termination related to off-duty conduct and did not assist with Applicant's Workers Compensation claim. Board dismissed portion of Application related to WCB claim and conducted preliminary hearing by written submissions to establish prima facie breach of the *Act*. Board held Union's actions in obtaining a legal opinion and following recommendations demonstrated reasonable care. Board held Applicant had not provided any evidence demonstrating a likelihood of establishing Union acted in a manner which was arbitrary, discriminatory, or in bad faith. Board found causation of the Applicant's PTSD was not a relevant factor in relation to the Application. Allegations President of Union unduly influenced Union's decision, were not substantiated. – Application dismissed

STUART OLSON INDUSTRIAL CONSTRUCTORS INC. -and- International Brotherhood of Electrical Workers Local 2085, et al

Case No 140/18/LRA

August 9, 2019

UNFAIR LABOUR PRACTICE – Applicant contended that the union had failed to properly represent her – Applicant delayed in filing her Application, as she had first filed with the Human Rights Commission - The Applicant advances that she elected to file with the Commission at the insistence of the Union – Applicant said that she was unaware that could file in multiple forums - – Union says that complaint filed by Applicant with the Commission was against the Employer, and not the Union – These are separate matters, and it was open to the Applicant to file at the Board in a timely way – Applicant admitted that there were not impediments to her filing with the Board – Timeliness of application was threshold issue – Board not satisfied that Applicant filed with Commission at the Union's urging - Board concluded that there were no exceptional circumstances which warranted the late filing of her Application - Board did not consider the Applicant's request for an extension for the purpose of the pursuit of claims with other entities to

constitute an acceptable or compelling reason to warrant a departure from the Board's established practice – Application dismissed.

HAYWOOD CONCRETE PRODUCTS LTD. -and- Construction and Specialized Workers Union, Local 1258

Case No. 125/19/LRA

December 4, 2019

APPLICATION FOR CERTIFICATION – After vote conducted, Union sought to further amend the applied for bargaining unit description – Board denied the further amendment.

APPLICATION FOR CERTIFICATION – Employer objected to Union's description of bargaining unit on basis that not appropriate for bargaining – At the hearing, the Union conceded that applied for bargaining unit was not appropriate, and asked the Board to craft an appropriate bargaining unit on the basis of the evidence presented - Employer did not agree, advising that Board should be reviewing the applied for bargaining unit to determine whether it is an appropriate unit for the purposes of bargaining - Board does not require absolute precision in applications for certification, but does require that a union describe a unit applied for in a way that makes it sufficiently clear to know which employees are being proposed for inclusion – Board determined that what the Union sought in this case was beyond a request for clarification or revision - For the Board to do what the Union sought for it to do would be to describe a fundamentally different bargaining unit from which the application and amended application were made - Board concluded that it must assess the Amended Application, as drafted, and consider whether the applied for unit is appropriate for the purposes of collective bargaining - Board concluded that the unit, as defined in the Amended Application, is an appropriate unit for the purposes of collective bargaining.

APPLICATION FOR CERTIFICATION – Exclusions - Union sought a unit of only those employees working primarily inside the plant – Employer argued that this would unduly fragment the workforce and requested that all employees, whether they work inside or in the yard, should be included – The Amended Application was for an all-employees unit – Board concluded that there no reason to vary the proposed all-employee unit, and to segregate from this group the yard employees, including the truck drivers.

APPLICATION FOR CERTIFICATION – Managerial Exclusions – Union sought exclusion of 3 employees on the basis that their inclusion in the bargaining unit would cause a conflict of interest - Board not satisfied that any of the 3 proposed employees performed management functions primarily - Nor was Board satisfied that they perform managerial functions of a nature or degree that would require their exclusion from any bargaining unit or that their inclusion would cause a real or perceived conflict of interest with other employees in the bargaining unit - Board not satisfied that the managerial exclusion should apply.

PEMBINA TRAILS SCHOOL DIVISION -and- Educational Assistants of Pembina Trails -and- KH

Case No. 193/19/LRA

December 16, 2019

RATIFICATION VOTE – TIMELINESS OF COMPLAINT – Employee complained that bargaining agent failed to conduct proper ratification vote as required by section 69 of *The Labour Relations Act*. Complaint not filed within 15 days of the ratification vote - If no complaint is filed within 15 days of the vote, legislation conclusively deems that vote was conducted in accordance with the requirements of section 69 – The meaning of “days” in the *Act* is calendar days, not business days – Complaint dismissed as it was filed more than 15 days following the conclusion of the

ratification vote – Application dismissed – Substantive Order.

CANADA GOOSE INC. -and- Workers United Canada Council

Case Nos. 64/19/LRA and 76/19/LRA

December 27, 2019

APPLICATION FOR CERTIFICATION – Union sought to certify one of the Employer’s three Winnipeg manufacturing sites – Employer opposed certification on the basis that unit not appropriate for the purpose of collective bargaining - Employer contended that operations fundamentally integrated, with the employees at each of the sites performing the same work, sharing the same work benefits and working conditions – Employer argued that fragmentation of the Employer’s workforce would result in labour relations problems for the Employer – Union said that unit was appropriate as there was not sufficient interchange between the three sites; no shared duties; and that alleged disruption was speculative at best – Board determined that the work at other sites was in large part dependent on the site that sought unionization - Board concerned that unit confined to a single location would have effect of differentiating between three groups of employees who perform substantially the same work for the same Employer; have an identical wage structure that applies to employees at all three plants; each receiving same benefits; and sharing same or similar skills and interests - Board has concluded that the administrative structure of the Employer favours a single-unit designation - Application for Certification dismissed.

UNFAIR LABOUR PRACTICE – Letters of objection signed at the workplace – Employer argued that individual who created letters was proposed bargaining unit member – Employer’s evidence was that management did not know about letter campaign – Union argued that there was coordinated efforts and that Employer was aware but turned blind eye - Board concluded that she was not acting on behalf of management – Board determined that representative from management was aware of letter campaign and did not take any steps to address the issue – Board satisfied that actions support a finding of an unfair labour practice.

UNFAIR LABOUR PRACTICE – Manager held meeting with certain employees and made a number of disparaging comments about the Union and inquired from employees how they would vote in the Representation Vote – Employer’s evidence was that when they found about meeting, the manager was terminated - Board is satisfied that manager committed an unfair labour practice contrary to section 6(1) of the *Act* when she made critical and derogatory comments about the Union.

REMEDIES – DISCRETIONARY CERTIFICATION – Request by Union for a discretionary certification – Board says elements for a finding for discretionary certification not present - Board not satisfied that unfair labour practices committed by management representative either resulted or would result in the true wishes of the employees not likely being ascertainable.

THE SCHOOL DIVISION OF MYSTERY LAKE & D.M. -and- United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (“United Steelworkers”), Local 8223-00 & Local 8223-13

Case No. 147/19/LRA

January 23, 2020

UNFAIR LABOUR PRACTICE – Union sought simultaneous exchange of bargaining proposals - Employer representative advised Union that would not provide proposals in advance of collective bargaining – On first day of bargaining, Union tabled proposals – Employer requested time to review and respond – Union refused to bargain on those terms and pulled its proposals – Union filed Application alleging that Respondents have failed to bargain in good faith in contravention of

sections 5(1), 5(3), 6(1), 26 and 63 of the *Labour Relations Act* - Union argued that the process suggested by Employer unfair and would allow it to have a “sneak peek” at the Unions’ positions and enable them to amend their own proposals – Employer denied that they imposed procedural requirements to the point of impasse – Employer advised that willing to proceed with collective bargaining – Board considered principle that existence of the duty to bargain in good faith is not to result in the parties abandoning the bargaining table for the Board simply because the bargaining process is not working in their favour – Board determined that it was clear that both parties wished to bargain towards a collective agreement, but disagreed on the process to meaningfully bargain - Board not prepared to conclude that Unions’ failure to table its proposals amounts to bargaining in bad faith, but the Unions have a responsibility to table their proposed amendments to the collective agreement, as they have agreed to do - Employer then has responsibility to respond in a timely manner, and in a manner that is consistent with the principles of good faith bargaining - Board encourages the use of mediation and problem-solving approaches to these types of labour relations issues, without resorting to lengthy and costly hearings before this Board – Application dismissed.

RED RIVER CO-OPERATIVE LTD. -and- United Food and Commercial Workers Union, Local No. 832

Case No. 251/18/LRA

March 10, 2020

BOARD DETERMINATION – Union filed an Application seeking Board determination following the employer’s acquisition of three food stores. Union represented the employees in two of the three stores. Employees of the third store were not unionized - Issue whether Union is exclusive bargaining agent for employees working at the previously non-unionized food store because it has a province-wide all employee recognition clause contained in the collective agreement between it and Employer. - Board determined that Union is exclusive bargaining agent for employees of the previously non-unionized food store in accordance with the recognition clause contained in the collective agreement entered into between the parties – Application allowed – Substantive Order.

Under The Employment Standards Code

HONEYBROOK INVESTMENT INC. -and- X.T.

Case No. 236/18/ESC

May 31, 2019

WAGES – OVERTIME – Managerial Exclusion – Employee appealed Dismissal Order alleging that overtime wages were not paid upon termination of employment - Employee was “Operations Manager” – Question of whether or not Employee is exempted pursuant to s. 2(4) of *The Employment Standards Code* to the overtime provisions – Employee had signed Employment Agreement identifying tasks – Manner in which Employee elected to exercise independent authority could not be determinative of issue – Board satisfied that Employee performed management functions primarily with the meaning of s. 2(4)(a) of the *Code* – Appeal dismissed – Substantive Order.

7044119 MANITOBA LTD. -and- A.M

Case No. 167/19/ESC

March 20, 2020

PROTECTED LEAVE – Employee claimed to have been terminated while on a protected leave – Employer disputed that Employee was on a protected leave at the time of their termination – Employer alleged that the medical notes provided by the Employee were neither “evidence

reasonable in the circumstances”, nor did they demonstrate that the Employee was required to be off as a result of a “serious injury or illness” - Employee argued that the medical documentation was sufficient to ground a claim for serious injury or illness - The sole issue for consideration was whether the Employee was on a protected leave for serious injury or illness at the time of their termination – Board considered that Manitoba legislation requires an employee to provide “evidence reasonable in the circumstances” to verify that the employee is expected to be incapable of working for at least two weeks due to a serious illness or injury – Board determined there is a discernible legislative intent to impose an obligation on employees to do more than to simply provide a generic medical note that outlines a period of leave required – The Employer had sought out additional supporting documentation and clarification, but Employee was unwilling to participate in the process and failed to respond to the Employer’s requests for further information - Board not satisfied that Employee was on a protected leave for serious injury or illness and accordingly entitled to protections as outlined at Section 59.10 of the Code – Appeal dismissed for failing to establish a *prima facie* case.

STATISTICAL TABLES

TABLE 1
STATISTICS RELATING TO THE ADMINISTRATION OF THE LABOUR RELATIONS ACT
(April 1, 2019 – March 31, 2020)

Type of Application	Cases Carried Over	Cases Filed	Total	Disposition of Cases					Number of Cases Disposed	Number of Cases Pending
				Granted	Dismissed	Withdrawn	Did Not Proceed	Declined to Take Action		
Certification	2	35	37	20	8	4	0	0	32	5
Revocation	0	6	6	4	0	0	0	0	4	2
Amended Certificate	2	37	39	36	0	0	0	0	36	3
Unfair Labour Practice	15	32	47	3	10	16	0	0	29	18
Board Ruling	2	5	7	2	0	2	0	0	4	3
Review and Reconsideration	3	10	13	0	11	2	0	0	13	0
Successor Rights	2	3	5	2	0	0	0	0	2	3
Termination of Bargaining Rights	1	1	2	1	1	0	0	0	2	0
Changes in Work Conditions (Sec.10(1)) ¹	0	2	2	1	0	1	0	0	2	0
Changes in Work Conditions (Sec. 10(3)) ²	0	2	2	1	0	1	0	0	2	0
Duty of Fair Representation (Sec. 20)	15	26	41	0	21	5	0	0	26	15
Speed Up Decision (Sec. 125(4))	0	0	0	0	0	0	0	0	0	0
Access Agreement (Sec. 22)	0	1	1	0	0	1	0	0	1	0
Ratification Vote Complaint (Sec. 69, 70)	0	1	1	0	1	0	0	0	1	0
Minister Requires Ratification Vote (Sec. 72.1)	0	0	0	0	0	0	0	0	0	0
Religious Objector (Sec. 76(3))	0	4	4	3	0	0	0	0	3	1
First Collective Agreement (Sec. 87(1))	1	6	7	2	0	4	0	0	6	1
Subsequent agreement (Sec. 87.1(1))	0	0	0	0	0	0	0	0	0	0
Appoint Arbitrator (Sec. 115(5))	0	7	7	4	0	3	0	0	7	0
Extension of Time Limit (Sec. 130(10.1))	0	0	0	0	0	0	0	0	0	0
Disclosure of Union Information (Sec. 132.1)	0	0	0	0	0	0	0	0	0	0
Referral for Expedited Arbitration ³	16	57	73	-	-	-	-	-	65	8
Totals	59	235	294	79	52	39	0	0	235	59

1. When an Application for Certification is filed with the Board, changes in conditions of employment cannot be made without the Board's consent until the Application is disposed of.
2. Within the first 90 days following certification of a union as a bargaining agent, strikes and lockouts are prohibited, and changes in conditions of employment cannot be made without the consent of the bargaining agent. Applications under this section are for an extension of this period of up to 90 days.
3. See Table 3 for a breakdown of statistics relating to applications for referral for expedited arbitration.

TABLE 2
STATISTICS RELATING TO THE ADMINISTRATION OF *THE LABOUR RELATIONS ACT* RESPECTING REPRESENTATION VOTES
(April 1, 2019 – March 31, 2020)

TYPE OF APPLICATION INVOLVING VOTE	Number of Votes Conducted	Number of Employees Affected by Votes	Applications GRANTED After Vote	Applications DISMISSED After Vote	Applications Withdrawn After Vote	Outcome Pending	Vote Conducted but not counted
Certification	30	950	21	7	2	0	3
Revocation	5	134	4	0	0	1	0
Intermingling	1	367	1	0	0	0	0
Termination of Bargaining Rights	1	26	1	0	0	0	0

TABLE 3
STATISTICS RELATING TO THE ADMINISTRATION OF *THE LABOUR RELATIONS ACT* RESPECTING REFERRALS FOR EXPEDITED ARBITRATION
(April 1, 2019 – March 31, 2020)

Cases Carried Over	Referrals Filed	TOTAL	Cases Where Mediator Appointed	Disposition of Cases					Cases Disposed	Cases Pending
				Settled by Mediation	Settled by Parties	Arbitration Award Issued	Declined to Take Action	Withdrawn		
16	57	73	21 ¹	19	10	6	2	28	65	8

1. - The count of mediators appointed relates to the files opened during the fiscal year. In cases where two or more applications were consolidated, the mediation is counted as one appointment.

TABLE 4
STATISTICS RELATING TO THE ADMINISTRATION OF *THE EMPLOYMENT STANDARDS CODE*
(April 1, 2019 – March 31, 2020)

Cases Carried Over	Number of Appeals Filed	TOTAL	Orders Issued by the Board	Appeals Withdrawn	Number of Appeals Disposed of	Number of Cases Pending
15	23	38	14	11	25	13

TABLE 5
STATISTICS RELATING TO THE ADMINISTRATION OF *THE WORKPLACE SAFETY AND HEALTH ACT*
(April 1, 2019 – March 31, 2020)

Cases Carried Over	Number of Appeals Filed	TOTAL	Decisions/Orders Issued by the Board	Appeals Withdrawn	Number of Cases Disposed	Number of Cases Pending
5	9	14	3	4	7	7

TABLE 6
STATISTICS RELATING TO THE ADMINISTRATION OF *THE ESSENTIAL SERVICES ACT*
(April 1, 2019 – March 31, 2020)

Cases Carried Over	Number of Applications Filed	TOTAL	Orders Issued by the Board	Applications Withdrawn	Number of Cases Disposed of	Number of Cases Pending
0	0	0	0	0	0	0

TABLE 7
STATISTICS RELATING TO THE ADMINISTRATION OF *THE ELECTIONS ACT*
(April 1, 2019 – March 31, 2020)

Cases Carried Over	Number of Applications Filed	TOTAL	Orders Issued by the Board	Applications Withdrawn	Number of Cases Disposed of	Number of Cases Pending
0	1	0	0	1	1	0

TABLE 8
STATISTICS RELATING TO THE ADMINISTRATION OF *THE PUBLIC INTEREST DISCLOSURE (WHISTLEBLOWER PROTECTION) ACT*
(April 1, 2019 – March 31, 2020)

Cases Carried Over	Number of Applications Filed	TOTAL	Orders Issued by the Board	Applications Withdrawn	Number of Cases Disposed of	Number of Cases Pending
1	2	3	3	0	2	0

TABLE 9
STATISTICS RELATING TO BOARD HEARINGS
(April 1, 2019 – March 31, 2020)

During the reporting period, 105 matters were scheduled to be heard. ¹	Scheduled Hearing Dates	Hearing Dates that Proceeded	Percentage of Proceeded to Scheduled
Number of hearing dates ²	231	56	24%

- 1 A "matter" may deal with one or more applications. For example, a matter could involve one application for unfair labour practice or a matter could involve an unfair labour practice and a related application for certification.
2 A hearing can be either a full or half day.

TABLE 10
FIRST AGREEMENT LEGISLATION REVIEW OF CASES FILED
(April 1, 2019 – March 31, 2020)

Union	Employer	Date of Application	Outcome of Application	Status as at March 31
<u>Pending from Previous Reporting Period</u>				
Canadian Union of Postal Workers	Medical Carriers	February 13, 2019	Withdrawn	
<u>New Applications from Current Reporting Period</u>				
IUOE , Local 987	Crown Pipeline Ltd.	January 28, 2020	Pending	Pending
UFCW, Local Union 832	Stella's Cafe and Bakery	October 8, 2019	Withdrawn	
MGEU	Frontier School Division	August 2, 2019	Withdrawn	
UFCW , Local Union 832	Stella's Cafe and Bakery	July 26, 2019	Board imposed first collective agreement	Expires September 20, 2020
MNU	Donwood Manor Personal Care Home	July 10, 2019	Withdrawn	
MNU	Cree Nation Tribal Health Centre	April 18, 2019	Board imposed first collective agreement	Expires June 19, 2020

TABLE 11
SUBSEQUENT AGREEMENT LEGISLATION REVIEW OF CASES FILED
(April 1, 2019 – March 31, 2020)

Union	Employer	Date of Application	Outcome of Application	Status as at March 31
<u>Pending from Previous Reporting Period</u>				
Nil				
<u>New Applications from Current Reporting Period</u>				
Nil				