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**LANDLORD AND TENANT BOARD:
ORDER-IN-COUNCIL APPOINTMENT OF
ROD JACKSON ***

Prepared for:

Standing Committee on
Government Agencies

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INTRODUCTION

This background document was prepared for Members participating in the Committee's review of the Order-in-Council appointment of Rod Jackson as a part-time Member of the Landlord and Tenant Board (Social Justice Tribunals Ontario). It first provides an overview of the Board, including its structure, followed by a review of statistics, recent operational highlights, COVID-19-related developments, and media coverage. It concludes with a brief biography of the witness and a discussion of possible lines of questioning.

THE LANDLORD AND TENANT BOARD

Enabling Statute	Responsible Ministry								
<i>Residential Tenancies Act, 2006</i>	Attorney General								
Agency type	Most Recent Annual Report								
Adjudicative	2019-2020								
Activities of the Agency									
The Board has exclusive jurisdiction to determine applications under the Act regarding residential tenancies.									
Board Membership									
Statutory Number of Members: None prescribed Number Appointed by Cabinet: All Term of Office: Not prescribed	<table> <tr> <th>Position</th><th>Remuneration</th></tr> <tr> <td>A/Vice-Chair (part-time):</td><td>\$744 per diem</td></tr> <tr> <td>Vice-Chair (part-time):</td><td>\$583 per diem</td></tr> <tr> <td>Members (part-time):</td><td>\$472 per diem¹</td></tr> </table>	Position	Remuneration	A/Vice-Chair (part-time):	\$744 per diem	Vice-Chair (part-time):	\$583 per diem	Members (part-time):	\$472 per diem ¹
Position	Remuneration								
A/Vice-Chair (part-time):	\$744 per diem								
Vice-Chair (part-time):	\$583 per diem								
Members (part-time):	\$472 per diem ¹								
Position Requirements									
Prospective members go through a merit-based selection process that includes an assessment of experience, knowledge or training in the subject matter and legal issues dealt with by the Board; aptitude for impartial adjudication; and aptitude for applying alternative adjudicative practices and procedures that may be set out in the Board's rules. ²									

Overview

The Landlord and Tenant Board (LTB) is an independent, quasi-judicial adjudicative agency, established under the *Residential Tenancies Act, 2006* (RTA). In 2007, the Board replaced the Ontario Rental Housing Tribunal, which had operated under the former *Tenant Protection Act, 1997*.

The LTB resolves applications related to residential tenancy disputes between landlords and tenants and eviction disputes in non-profit housing co-operatives.

¹ Ontario, Agencies and Appointments Directive, see [Schedule B](#): remuneration of appointees to adjudicative tribunals and regulatory agencies.

² [Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009](#), S.O. 2009, c. 33, Sched. 5, s. 14; Tribunals Ontario, [Member Position Description](#).

The LTB is also mandated to provide information to landlords and tenants about their rights and responsibilities under the RTA.

Structure of the Board

The LTB is designated as part of an adjudicative tribunal cluster by regulation made under the *Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009*.³

All members of the Board are appointed by the Lieutenant Governor in Council (Cabinet). Public servants may be appointed to the Board. The Act is silent as to the Board's size and the length of its members' term of office.

Currently, the Board consists of

- one full-time Executive Chair;
- one Alternate Executive Chair;
- one full-time Associate Chair;
- eight full-time Vice-Chairs (plus one vacancy);
- four part-time Vice-Chairs (plus one vacancy);
- 29 full-time Members (plus one vacancy); and
- 34 part-time Members (plus two vacancies and two forthcoming vacancies due to resignations).

The witness is seeking appointment as a part-time Member.

Statistics

The Board receives over 80,000 applications annually and conducts hearings around the province on a range of matters. In 2019-20, the Board received 80,874 applications, a decrease of 1.5% or 1,221 applications compared to 2018-19. Of the number of received applications, 72,064 (89%) were resolved. The majority of applications (56.9%) were resolved at hearing.

Consistent with a trend that began in 1998, when landlord-tenant disputes were transferred from the provincial courts to the Board, the bulk (55%) of all applications in 2019-20 were filed by landlords seeking termination of tenancy

³ In 2011 the Landlord and Tenant Board was designated as one of the seven tribunals that make up Social Justice Tribunals Ontario (SJTO). The other SJTO tribunals are the Child and Family Services Review Board, the Custody Review Board, the Human Rights Tribunal of Ontario, the Ontario Special Education Tribunal (English), the Ontario Special Education Tribunal (French), and the Social Benefits Tribunal. The SJTO was formed under the *Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009*, which authorizes Cabinet to designate two or more adjudicative tribunals as a cluster if Cabinet is of the opinion that the matters the tribunals deal with "are such that they can operate more effectively and efficiently as part of a cluster than alone."

and eviction orders for non-payment of rent. While the number of applications for termination of tenancy for non-payment of rent remains high, the volume of such applications has actually declined over the past three years, while applications for termination and eviction for other reasons have slightly increased over the same period of time.

The ratio of landlord to tenant applications to the Board has also remained relatively constant since the 1998 changes, with 90% of applications filed by landlords and 10% filed by tenants. In 2019-20, most applications filed by tenants were on grounds of tenant rights (38%) and maintenance (23.5%).

The LTB's standard is to schedule a first hearing for the most common rent disputes within 25 business days of an application. While the board met that standard in 54% of cases in the 2017-18 fiscal year, that fell to 35% in 2018-19, and fell further to just 15% in 2019-20 according to the most recent annual report for Tribunals Ontario.⁴

Recent Operational Highlights

e-File System

In 2019-20, [e-File](#) became the most popular option to file an LTB application. The LTB received 45,899 applications through e-File, which accounted for more than half of all applications (80,874) filed. The e-File system allows landlords and tenants across Ontario to file the most common LTB applications online at any time, from anywhere, and at a discounted fee.⁵

Streamlining Processes

The LTB implemented several initiatives in 2019-20 to help streamline its processes and address scheduling challenges. These included initiatives that allowed certain services to be performed by members electronically such as routine adjudication requests, and order processing and issuance. Additionally, changes were made to the scheduling model that would allow the LTB to assess needs and allocate member resources more effectively across all regions of Ontario.⁶

Adjudicator Recruitment Efforts

The LTB engaged in three intensive adjudicator recruitment efforts in 2019-20 to increase and improve service delivery. The most recent round of recruitment focused on filling remaining gaps by recruiting more bilingual members and additional members for regions with the most critical adjudicator shortages.⁷

⁴ Tribunals Ontario, [Tribunals Ontario 2019-20 Annual Report](#), p. 52; Mike Crawley, "[Delays at Ontario Landlord and Tenant Board prompt ombudsman investigation](#)," *CBC News*, January 9, 2020.

⁵ Tribunals Ontario, [Tribunals Ontario 2019-20 Annual Report](#), p. 49.

⁶ Ibid.

⁷ Ibid.

COVID-19-Related Developments

Suspension of Limitation Periods due to COVID-19 Pandemic

On March 20, 2020, the Government of Ontario made an emergency order under the *Emergency Management and Civil Protection Act*, suspending limitation periods and procedural time periods relevant to tribunal proceedings. The suspension was retroactive to March 16, 2020. Suspended limitation periods and procedural timelines resumed on September 14, 2020.⁸

Suspension of Residential Evictions due to COVID-19 Pandemic

On March 19, 2020, the Ontario Superior Court issued an order suspending residential evictions. At that time, the LTB suspended hearings related to eviction applications unless the matter related to an urgent issue such as an illegal act or a serious impairment of safety. On August 1, 2020, the LTB resumed hearing all types of applications, including those related to evictions.⁹

The enforcement of eviction orders was paused in Ontario when the provincial government introduced a stay-at-home order on January 14, 2021, to slow the spread of COVID-19.¹⁰ Enforcement of eviction orders began resuming on February 10, 2021, in regions where the stay-at-home order was lifted.¹¹

Recent news reports speculate there will be a “wave of evictions” in Ontario as a result of the COVID-19 pandemic, particularly following the suspension of residential evictions. In response, the Ontario Bar Association launched a new pro bono legal service in February 2021 to help tenants at risk of being evicted.¹²

On February 16, 2021, Bill 244, the *No COVID-19 Evictions Act, 2021* was introduced.¹³ It would have extended the temporary ban on evictions until one year after the pandemic is declared over by the chief medical officer of health.¹⁴ It lost a vote in the legislature at the Second Reading stage on February 17, 2021.

Rent Freeze at 2020 Levels

The Government of Ontario has passed legislation to freeze rent at 2020 levels until December 31, 2021. This means that rents will not increase in 2021 for the vast majority of rental units covered under the *Residential Tenancies Act, 2006*, subject to exceptions.¹⁵

⁸ Tribunals Ontario, [COVID-19 Updates on Tribunals Ontario Operations](#), last updated March 10, 2021.

⁹ Landlord and Tenant Board, [Operational Updates](#), last updated on March 10, 2021.

¹⁰ Ministry of Municipal Affairs and Housing, [“Ontario Temporarily Pauses Residential Evictions,” News Release](#), January 14, 2021.

¹¹ Officer of the Premier, [“Ontario Extending Stay-at-Home Order across Most of the Province to Save Lives,” News Release](#), February 8, 2021.

¹² Nick Boisvert, [“Ontario lawyers to offer free legal advice for tenants as ‘wave of evictions’ looms,” CBC News](#), February 20, 2021.

¹³ Legislative Assembly of Ontario, Bill 244, the *No COVID-19 Evictions Act, 2021*.

¹⁴ News Staff, [“Ford government votes against year-long ban on residential evictions,” City News](#), February 17, 2021.

¹⁵ Landlord and Tenant Board, [Operational Updates](#), last updated on March 10, 2021.

Additional Media Coverage

Ontario Ombudsman Investigation re: Delays

On January 9, 2020, the Ontario Ombudsman announced an investigation into delays for hearings and decisions at the LTB.¹⁶ The Ombudsman noted that “the investigation will focus on whether the government is taking adequate steps to address the delays and backlogged cases.”¹⁷ Although the terms of some adjudicators were recently extended and a few more have been recruited, the investigation will also look into other potential systemic factors that may be contributing to the problem, such as relevant legislation, training, funding and technology.¹⁸ The fieldwork for this investigation is ongoing.¹⁹

Delays continue to be an issue since the time the Ombudsman’s investigation was announced and have been further influenced by the ensuing pandemic.²⁰

New Digital Case-Management System

In March 2021, the Attorney General announced a new digital case-management system for Ontario’s 14 adjudicative tribunals. In addition to filing documents online, the system will facilitate virtual dispute resolution similar to British Columbia’s online adjudicative tribunal system. The Attorney General indicated that the new system will be in place at the Landlord Tenant Board (as well as the Human Rights Tribunal) “by the end of the summer.”²¹

THE WITNESS

According to the Office of the Premier, the Witness, of Barrie, serves as a Director (part-time) for the Ontario Motor Vehicle Industry Council, and a member (part-time) for the Ontario Trillium Foundation. He is a partner at FullForce Legal Services LLP, a former Chief Executive Officer for Barrie Chamber of Commerce, and a former MPP for the Legislative Assembly of Ontario from 2011 to 2014.

¹⁶ Mike Crawley, “[Delays at Ontario Landlord and Tenant Board prompt ombudsman investigation](#),” *CBC News*, January 9, 2020.

¹⁷ Ombudsman Ontario, “[Ontario Ombudsman to Investigate Delays at Landlord and Tenant Board](#),” January 9, 2020.

¹⁸ Tribunals Ontario, *Tribunals Ontario 2019-20 Annual Report*, p. 50.

¹⁹ Ombudsman Ontario, *2019-2020 Annual Report*.

²⁰ Sue-Ann Levy, “[LEVY: No recourse when tenants use COVID as excuse not to pay rent](#),” *Toronto Sun*, February 21, 2021; Frazer Snowdon, “[Ontario landlords struggle as major delays continue to plague LTB hearings](#),” *Global News*, January 29, 2021.

²¹ Paolo Loriggio, “[New online system aims to combat delays and case backlogs in Ontario tribunals](#),” *City News*, March 11, 2021.

POSSIBLE QUESTIONS

What has motivated the witness to seek this position?

In the witness' view, what are the main issues facing the Board today?

Could the witness describe previous experiences that might be of assistance for undertaking this position?

What particular contribution does the witness hope to make?

In the witness's opinion, what is required to succeed in the face of challenges created by COVID-19?